

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1199565-0

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XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 3/25/74

[redacted]
[redacted] Illinois,
telephone number [redacted] provided the following in-
formation:

b6
b7C

He advised that prior to the truck driver's strike in 1970, his firm engaged in leasing trucks and drivers to various trucking companies. Following the strike, there was a noticeable decrease in this type of work, so he attempted to find other means of keeping his drivers working. He entered into a working agreement with [redacted] who, at that time, operated [redacted] [redacted] would use [redacted] authority to haul loads out of [redacted] Illinois. [redacted] advised he entered into this agreement with [redacted] inasmuch as [redacted] initially learned that [redacted] had this business, and that [redacted] did not have authority to haul interstate. He advised that under their agreement, [redacted] paid him ten percent for loads that he, [redacted] hauled and [redacted] company would haul the remaining loads that [redacted] company could not handle.

[redacted] advised [redacted] was convicted of Theft From Interstate Shipment (TFIS) in 1973, and sentenced to prison in approximately [redacted]. During the time [redacted] was in prison, [redacted] ran the business. She hired a mechanic from [redacted] to perform repairs on the company's trucks. [redacted] advised that by this time, [redacted] had changed the name of his company to [redacted] and operated the business out of his residence. [redacted] advised that [redacted] owned two trucks and he then started hauling loads out of [redacted] for [redacted] also using [redacted] authority. [redacted] stated his share of the business from [redacted] dropped from \$3.00 per week to \$300 per week.

Interviewed on 3/13/74 at Chicago Illinois File # CG 179-501 - 30
by SA [redacted] Date dictated 3/19/74

During the second week of January, 1974, [] went to [] and told them that the arrangement he had with [] was no longer satisfactory, and that either the business should go to [] or [] [] also told them that [] did not have authority to haul.

b6
b7C

[] said that [] had been under investigation by the Internal Revenue Service (IRS), and IRS apparently went to NPCC. After this, neither he nor [] could get any of the business from NPCC.

[] stated he owed [] approximately \$4,500 for loads that had been hauled by them by using his authority. [] advised he attempted to make some arrangement to have this money placed in escrow until such time as he could determine what damages, if any, had been done to trailers that were pulled by [] using the authority of []. He added that his company would be liable for these damages.

On January 31, 1974, [] was at his office at [] where he kept his trucks, when two individuals came looking for him. He went into the office with them and one individual identified himself as SAM ANNERINO, and the other individual said he is known as the [] described the [] as []

[] The two individuals arrived in a maroon with white top Mark IV, which was driven by ANNERINO. [] advised that the [] was carrying some bills from [] which he placed on a table. They demanded payment and [] said that he had acknowledged owing [] approximately \$4,500. The two individuals demanded payment immediately,

CG 179-501

and [] said that when he said, "If I pay now, will that be it?", ANNERINO came up swinging. He said he was hit in the head about three times and went to his knees. He was hit some more, though he tried to keep from going all the way down because he was afraid he would then be kicked. He was also threatened with more physical harm if he did not pay. They wanted him to write a check to cash and he refused to do it. [] advised that the bill these two individuals had totalled \$5,241.57. He then agreed to accompany them to the [] Bank where he got a certified check in the amount of \$5,241.57, payable to the []. The [] accompanied him inside the bank, and after [] got the check, he gave it to the []. [] advised he stayed in the bank and a short time later, he noticed ANNERINO come into the bank, however, he does not know what business was transacted by ANNERINO.

b6
b7c

[] advised that when he was contacted by SAM ANNERINO and the [] on January 31, 1974, he asked the [] what he could do if the amount they presented to him (\$5,241.57) was not the correct amount, and the [] said if it was not, [] should contact him at [] Trucking. [] said that after he came home, he checked his records and learned he had paid too much, so he contacted [] at [] Trucking in an effort to locate the []. [] told him that he should not stop payment on the check and [] then said he wanted to talk with [] in person about this. [] agreed, and they met.

[] advised that on February 18, 1974, he received a telephone call from an individual who identified himself as SAM ANNERINO. ANNERINO said he had a lot of

CG 179-501

business for him and that they could make some money, and [] turned him down saying he was tied up. A second individual then came on the telephone and said his name was [] and this individual went into a tirade against [] saying he would bust his head. [] said he later learned that these men had been at [] looking for him prior to his receiving the telephone call.

b6
b7c

[] advised that about a week ago, he learned that [] was getting a furlough from prison. On March 12, 1974, [] called [] and said he wanted to meet with him. [] indicated he did not want to meet with [] and [] said that if he, [] did not, somebody else would be out to talk with him. [] then agreed to meet with [] After he got there, [] sat at the bar and [] sat at a table nearby. [] told [] that he wanted to renew their business agreement whereby [] would haul loads out of [] using the authority of [] [] indicated that he had talked with his contact at [] and that he could be worked in again. [] indicated that he would be running three tractors and that there should also be business for [] [] said he turned [] down, saying that he did not want to get involved. [] advised that [] said either they would enter into the agreement or "You're a dead man." [] also indicated that [] would suffer damage to his trucks if he did not agree.

During the course of this conversation, when [] initially turned down [] hit him in the stomach. Their conversation got heated and [] came over and stood nearby. [] did

CG 179-501

not enter into the conversation, and it was his impression that [] was just standing by to protect [] interests. At one point, [] took a swing at [] [] leaned back and the blow struck [] [] broke a glass at one point, and the [] several times came over to quiet him down. [] advised that he finally agreed to enter into the business agreement.

b6
b7c

[] is described as:

Race
Sex
Date of Birth
Place of Birth
Social
Security Number
Arrests

White
Male

[]

None admitted

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, Chicago 179-501 P

DATE: 4/24/74

FROM : SA [REDACTED]

b6
b7C

SUBJECT: [REDACTED]

Et al

ECT

OO: Chicago

On 4/22/74 Dept att. [REDACTED] advised that he was in the process of preparing a prosecution memo for the Department and that indictment of subjects is expected within a month.

DCN

G)

Reassign & Canavagh
4-25-74

179-501-52

SEARCHED	INDEXED
SERIALIZED	FILED
APR 25 1974	
FBI-CHICAGO	

Canavagh C



5010-108-02

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FEDERAL BUREAU OF INVESTIGATION

3/19/74

Date of transcription

[redacted] was arrested at his residence, [redacted] Illinois, at approximately 8:38 PM by SAs GERALD E. DWYER and GEORGE H. BENIGNI and Police Officer [redacted] Police Department. [redacted] was immediately advised by SA DWYER of the charges against him and his rights.

b6
b7c

After his arrest, [redacted] was transported to the Chicago Office of the Federal Bureau of Investigation (FBI). Enroute the "Interrogation; Advice of Rights" form was read to [redacted] by SA BENIGNI and he stated he would sign same after he reached the FBI Office.

[redacted] advised as follows:

Approximately one month ago, around 10:30 AM, he was in the office of his employer at [redacted] Chicago, Illinois. [redacted] (Last Name Unknown) (LNU), the operator of [redacted] was in the office complaining to his boss about money owed to her by [redacted] (LNU) owner of [redacted]. He is operating her business for her in the absences of [redacted]

He asked [redacted] (LNU) if she had invoices or bills showing the amount of money owed to her by [redacted] (LNU). [redacted] showed him bills which she told him amounted to \$5,200.00 and he told her he thought he could get the money for her. There was an indication that he would get some money for collecting this debt but no specific amount was mentioned.

He telephonically located SAM ANNERINO at a southwest side restaurant and asked him to go with him to see [redacted] (LNU). He was picked up by ANNERINO in ANNERINO's car, a maroon Lincoln Continental.

Interviewed on 3/15/74 at Chicago, Illinois File # CG 179-501-53
by SAs GERALD E. DWYER and GEORGE H. BENIGNI/GHB/lan Date dictated 3/18/74

He and ANNERINO went into an office at [] during the early noon hour on the same day where three males and a female were talking in an office. He asked for [] and upon learning that he was in the group asked to talk with him. He and ANNERINO confronted [] privately with the bills from [] and told him that he owed her for a month's receipts. [] attempted to tell them of the business arrangements that existed between him and [] and he told [] he wasn't interested in this but only the money. [] acknowledged that he owed [] the money less miscellaneous expenses for operating [] trucks. [] said his records for operating [] trucks were at his residence. He told [] that the bills he had were the same and [] agreed, so he told [] "Well, pay".

[redacted] asked [redacted] if he had the money and [redacted] said he had the money in a checking account. He told [redacted] to write a check for the amount of money owed [redacted] less expenses. [redacted] was agreeable and he then requested a certified check.

[redacted] immediately went alone, in his own car, to his bank at [redacted]. He and ANNERINO did not follow [redacted] in their car but met him in the bank parking lot. They went into the bank with [redacted] where they obtained a certified check for approximately \$5,200.

each from [redacted] said that he and ANNERINO received \$800 for collecting the debt.

to [] [] denied making any physical or oral threats
make any threats to [] at any time and said he did not hear or see ANNERINO

The following background information was obtained from [] through interrogation and observation:

Name
Address
Telephone
Date and Place
of Birth
Race
Sex
Height
Weight

White
Male
[] pounds

Illinois

b6
b7C

b6
b7C

CG 179-501

Hair
Eyes
Education
Social Security
Account Number
Driver's License
Wife
Children
Military

Criminal Record



b6
b7c

4/30/74

PLAINTEXT

TELETYPE

NITEL

TO : DIRECTOR, FBI

FROM: SAC, CHICAGO (179-331) (179-501) (P)

[REDACTED] - VICTIM, ECT.

b6
b7C

OO: CHICAGO.

[REDACTED]
VICTIM, RICO, ECT. OO: CHICAGO.

AS BUREAU AWARE, SAMUEL ANNERINO IS SUBJECT IN BOTH CAPTIONED CASES AND CURRENTLY FREE ON \$10,000 APPEAL BOND FOLLOWING ECT CONVICTION IN NOVEMBER, 1972, IN CHICAGO CASE ENTITLED [REDACTED] ET AL," AND SENTENCED TO FIVE YEARS PROBATION. ANNERINO APPEARED BEFORE U.S. DISTRICT COURT JUDGE FRANK MC GARR APRIL 29, 1974, ON A GOVERNMENT MOTION TO REVOKE ANNERINO'S APPEAL BOND. JUDGE MC GARR GRANTED GOVERNMENT'S MOTION TO REVOKE ANNERINO'S BOND BASED UPON HIS INVOLVEMENT IN CHICAGO CASE ENTITLED [REDACTED] ETAL," ANNERINO'S FIVE YEAR PROBATIONARY SENTENCE REVOKED AND HE WAS SENTENCED TO TWO YEARS IN CUSTODY OF AG AND ALLOWED 10 DAYS BY JUDGE MC GARR TO FINALIZE HIS AFFAIRS.

BUREAU WILL BE KEPT ADVISED OF DEVELOPMENTS.

1 - C#1 TICKLER
1 - 92-1839

PJW/vol
(4)

179-501-54
SEARCHED _____
SERIALIZED _____
INDEXED _____
FILED _____

5/22/74

AIRTEL

TO: DIRECTOR, FBI (100-121)
(ATTN: FBI, LABORATORY, LATENT
FINGERPRINT SECTION)

FROM: SAC, CHICAGO (179-501)

SUBJECT: [REDACTED]
ET AL;
[REDACTED] - VICTIM
[REDACTED] - VICTIM
RICO; RST; JDA

b6
b7C

OO: Chicago

Re Chicago report of SA [REDACTED] dated
4/9/74.

Enclosed for the Latent Fingerprint Section of
the FBI Laboratory is one (1) 4 1/2" x 11" piece of cardboard
bearing the printing "Drive this truck your dead!"

As the Bureau is aware, [REDACTED] and
[REDACTED] have beaten and threatened victims
[REDACTED] while SAM AMERINO and [REDACTED]
coercively extorted money from [REDACTED]. All were arrested
by the Chicago Office on 3/15-16/74, as a result of the
above described activities.

On 5/3/74, the enclosed note was found on the
windshield of one of [REDACTED] trucks which had

3 - Bureau (Enc. 1)
1 - Chicago

RIC/ans
(4)

PAID
10

179-501-59
SEARCHED
SERIALIZED
INDEXED
FILED
Cam
Cam

CG 179-301

been leased to [] doing business as []
[]

b6
b7c

The Latent Fingerprint Section is requested to determine if any identifiable prints still remain on the enclosed note, and if so, compare them with the prints of the following persons:

Name

FBI Number

SAMUEL ANGERINO

999 736 D

[]

[]

Note that the enclosed note has been handled by the following individuals:

[]

SA RICHARD P. CAVANAGH

Report results and return enclosed to Chicago.

Mr. Connelly:

A Consent to Transfer, received from the Northern District of Texas, together with a copy of the Information, was filed on June 7, 1974 in the following case:

[Redacted]

b6
b7C

The APRIL 1974 TERM GRAND JURY returned one (1) Indictment in open Court on June 7, 1974 before JUDGE JAMES B. PARSONS:

[Redacted]

The JUNE 1974 TERM GRAND JURY returned four (4) Indictments in open Court on June 7, 1974 before JUDGE JAMES B. PARSONS:

[Redacted]

The SPECIAL JANUARY 1974 TERM GRAND JURY returned two (2) Indictments in open Court on June 11, 1974 before CHIEF JUDGE EDWIN A. ROBSON:

74 CR 446
(74-498)

SAMUEL ANNERINO

[Redacted]
also known as
[Redacted]

B/W \$20,000

[Redacted]

[Redacted]

The JUNE 1974 TERM GRAND JURY returned two (2) Indictments in open Court on June 11, 1974 before CHIEF JUDGE EDWIN A. ROBSON:

[Redacted]

-501-61
Ram
14

File—Serial Charge Out
FD-5 (Rev. 6-17-70)

☆ GPO : 1973 O - 503-768

File _____ Class _____ Case No. _____ Last Serial _____ Date _____

☐ Pending

☐ Closed

Serial No. _____ Description of Serial _____ Date Charged _____

179-501

serial 60 skipped
in serialization

Employee _____

RECHARGE

Date _____

To _____ From _____

Initials of Clerk { _____

Date { _____

Date Charged _____

Employee _____

Location _____

F B I

Date: 6/12/74

Transmit the following in _____
CODE
(Type in plaintext or code)Via TELETYPE _____
NITEL
(Priority)

29

TO : DIRECTOR (183-121)

FROM: SAC, CHICAGO (179-501)

[REDACTED] - VICTIM; [REDACTED]

b6
b7C

VICTIM: RICO, ECT, JDA. OO: CHICAGO.

REMYTEL APRIL 30, 1974.

SUBJECTS SAM ANNERINO AND [REDACTED] INDICTED BY CHICAGO FGJ
JUNE 11, 1974, ON ONE COUNT VIOLATION OF ECT STATUTE (18 USC 894).
ANNERINO PRESENTLY SERVING TWO YEAR ECT SENTENCE ON ANOTHER
MATTER AT FCI, TERRE HAUTE, INDIANA. [REDACTED] ALLOWED TO CONTINUE HIS
SAME \$20,000 SECURED BOND PENDING INSTANT TRIAL.

CHICAGO STRIKE FORCE PRESENTLY PREPARING PROSECUTION
MEMORANDUM ON SUBJECT [REDACTED] FOR AR - HOBBS ACT VIOLATION.
STRIKE FORCE NOT DESIROUS OF ESTABLISHING RICO LAW IN USDC, NDI,
IN THIS MATTER.

IT IS TO BE NOTED THAT IN CONNECTION WITH CASE CAPTIONED
[REDACTED] ITSP," WHEREIN INTERCEPTIONS RESULTING FROM TITLE
III COVERAGE ESTABLISHED IN [REDACTED] PROVIDED
PROBABLE CAUSE FOR ISSUANCE OF SEARCH WARRANT WHICH WHEN EXECUTED

b3
b6
b7C

1 - C#1 TICKLER
1 - 92-1839

179-501-62

Ram

RPC/vcl
(3)

WA-656- FEL STA Ram

Approved: Hvcl
Special Agent in Charge

Sent _____ M Per _____

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)Via _____
(Priority)PAGE TWO
CG 179-501

ENABLED BUAGENTS TO RECOVER IN EXCESS OF \$35,000 WORTH OF
STOLEN JEWELRY THAT HAD BEEN TRANSPORTED FROM TEXAS PROBABLY BY
CHICAGO HOODLUMS [REDACTED]

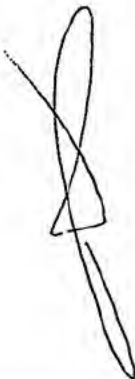
b6
b7C

INDICTMENT RETURNED JUNE 12, 1974, BY FGJ, CHICAGO, CHARGING
[REDACTED] WITH VIOLATION OF RICO STATUTE AS WELL AS ITSP. CHICAGO
STRIKE FORCE ATTORNEYS ALSO INVOKED FORFEITURE PROVISIONS OF RICO
STATUTE AND GOVERNMENT WILL SEIZE [REDACTED]

[REDACTED] CHICAGO,
INCLUDING INVENTORY AND FIXTURES UNDER TITLE NINE PROVISIONS.

FURTHER NOTED THAT [REDACTED] IS FIRST INDIVIDUAL INDICTED FOR
RICO IN NORTHERN DISTRICT OF ILLINOIS.

BUREAU WILL BE ADVISED OF DEVELOPMENTS.



Approved: _____
Special Agent in Charge

Sent _____ M Per _____

Indict 2 in trucking exec's extortion

By Larry Weintraub

A special federal grand jury Tuesday indicted a mob figure and a convicted receiver of stolen property on charges that they used muscle and a murder threat to collect \$5,241 from a South Side trucking executive.

The victim, Robert Rankin, 32, told investigators the two men punched him around, and threatened to break his kneecaps with a baseball bat or murder him with a shotgun if he did not pay the money.

Named in the indictment were Samuel Annerino, 30, of 3257 W. 79th, Burbank, and James Falco, 51, of 344 Eaton, Romeoville. Annerino is in federal prison in Terre Haute, Ind.

The indictment, returned before Chief U.S. District Court Judge Edwin A. Robson, charges that the threats were made last Jan. 31 at Rankin's Illinois Express Co. offices at 5434 S. Parkside.

It alleges that they "used threats and actual violence in the collection of the debt."

Last March, the defendants were arrested by Federal Bureau of Investigation agents along with Vernon Richards, 37, and his son, Kenneth, 17, both of 5806 W. 89th, Oak Lawn. The elder Richards, who owns Thunderbird Trucking and Warehouse Inc. at the Oak Lawn address, supposedly was Rankin's creditor.

Vernon Richards was on furlough from the federal prison at Marion, Ill., when he was arrested. He was serving a two-year sentence for theft from an interstate shipment.

After the special grand jury handed up the indictment in January, 1974, Judge Robson set bond for Annerino, who has crime syndicate connections, at \$30,000 and for Falco, who has been convicted of receipt of stolen goods, at \$20,000.

The evidence was presented to the grand jury by the Chicago strike force under the direction of U.S. Atty. James R. Thompson.

(Indicate page, name of newspaper, city and state.)

34 CHICAGO SUN TIME
CHICAGO, ILLINOIS

6/12/74

Date:

Edition: 4* FINAL
Author: LARRY WEINTRAUB

Editor: JAMES HOGE

Title:

ETAL ECT

b6

179-567c

Character:

COPY SENT TO BUREAU

Submitting Office: CHICAGO

☐ Being Investigated

179-501-63

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 13 1974	
FBI - CHICAGO	

2 accused of extortion in loan case

(Mount Clipping in Space Below)

Samuel Annerino, a convicted loan shark, and another man have been indicted by a federal grand jury on a charge of using extortion to collect a debt from the owner and operator of a Chicago trucking concern.

Named with Annerino in the indictment returned Tuesday before U.S. District Court Chief Judge Edwin A. Robson was James Falco, 51, of 344 Eaton, Romeoville.

Falco's bond was set at \$20,000. Annerino, 30, of 6357 W. 79th St., Burbank, is confined in federal prison at Terre Haute, Ind., following revocation of probation after conviction of extortion to collect a business debt.

The indictment charges that Annerino and Falco, who is also known as "Hawk," extorted money from Robert Rankin, owner and operator of Illinois Express Co., 5434 S. Parkside, by threatening him and using violence.

(Indicate page, name of newspaper, city and state.)

6 CHICAGO DAILY NEWS
CHICAGO, ILLINOIS

Date: 6/12/74
Edition: BLUE STREAK
Author:
Editor: D. FELDMER

Title: [REDACTED] ET
ECT

179-501 b6
b7C

Character:

or
Classification: COPY SENT TO BUREAU
Submitting Office: CHICAGO

[] Being Investigated

179-501-64

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 18 1974	
FBI - CHICAGO	

UNITED STATES GOVERNMENT

Memorandum

TO : SAC Chicago [redacted]

DATE: 7/2/74

b6
b7C
b7D

FROM : SA [redacted]

SUBJECT: [redacted]

Dates of Contact

6/28/74

File #s on which contacted (Use Titles if File #s not available or when CI provides positive information)

179-501 (CAVANAGH C-1) [redacted] et al

Purpose and results of contact

☐ NEGATIVE
☒ POSITIVE
☐ STATISTIC

Informant advised [redacted]

Informant states [redacted]

Informant had no information [redacted]

☒ POSITIVE ASSIGNMENT GIVEN [redacted]

Has informant shown any indication of emotional instability, unreliability or furnishing false information? no

☒ Informant certified that he has furnished all information obtained by him since last contact, including information concerning narcotics.

Coverage

Criminal

PERSONAL DATA

179-501-65

SEARCHED	INDEXED
SERIALIZED	FILED
JUL 1974	
FBI - CHICAGO	

Cavanagh C

179-501

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, CHICAGO [REDACTED]

DATE: 8/30/74

b6
b7C
b7D

FROM : SA [REDACTED]

SUBJECT: [REDACTED]

Dates of Contact

7/17/74; 8/7/74; 8/30/74

File #s on which contacted (Use Titles if File #s not available or when CI provides positive information)

SAM ANNERINO (179-501)

Purpose and results of contact

☒ NEGATIVE☐ POSITIVE☐ STATISTIC

SOURCE ADVISED ON 8/30/74 THAT WHILE SAM ANNERINO WAS IN COOK COUNTY JAIL THAT HE WAS PERMITTED OUT AT NIGHT AND WAS OBSERVED IN A CHICAGO AREA LOUNGE BY AN ASSOCIATE OF SOURCE

SOURCE ADDED THAT HE HEARD THAT THERE WAS A KILLING IN LAS VEGAS AND THAT ANNERINO WAS ONCE CONSIDERED A SUSPECT. SOURCE STATED THAT THE INDIVIDUAL WHO DID THE KILLING WAS CALLED

[REDACTED] SOURCE HAD NO ADDITIONAL INFO ON THIS PERSON

☐ POSITIVE ASSIGNMENT GIVEN (Ghetto only)

Has informant shown any indication of emotional instability, unreliability or furnishing false information? NO

☒ Informant certified that he has furnished all information obtained by him since last contact, including information concerning narcotics.

Coverage

PERSONAL DATA

1- [REDACTED]
(179-501)179-501-67
[Signature]

AF2

FBI

Date: 9/3/74

Transmit the following in PLAINTEXT
(Type in plaintext or code)Via FACSIMILE NITEL
(Priority)

TO : DIRECTOR, FBI (183-121)

FROM: SAC, CHICAGO (179-501)

[REDACTED] ET AL; [REDACTED] - VICTIM; RICO; ECT;
JDA; AR - HOBBS ACT, OO: CHICAGO

REMYTEL, JUNE 12, 1974.

[REDACTED] INDICTED BY CHICAGO FGJ ON SEPTEMBER 3, 1974,
ON ONE COUNT HOBBS ACT VIOLATION. [REDACTED] PRESENTLY INCARCERATED
MARION FEDERAL PENITENTIARY SERVING THREE YEAR TFIS SENTENCE
IMPOSED SEPTEMBER, 1973.

TRIAL DATE FOR SAM ANNERINO AND [REDACTED] ON ECT VIOLATION
SET FOR SEPTEMBER 23, 1974, IN USDC, NDI, CHICAGO, ILLINOIS.
BUREAU WILL BE ADVISED OF DEVELOPMENTS.

③ - Chicago
(1 - C-1 Tickler)
(1 - 92-1839)
RPC/dcl
(3)

WA-810/P - DLM - SA

Approved: [Signature]
Special Agent in Charge

Sent _____ M Per _____

U.S. Government Printing Office: 1972 - 455-574

b6
b7c

F B I

Date: 9/19/74

Transmit the following in _____

(Type in plaintext or code)

PLAINVia **TELETYPE** _____**URGENT** _____

(Priority)

TO: DIRECTOR (183-121) **AND SAC**
SAN JUAN

FROM: CHICAGO (179-501)

[] ET AL; [] - VICTIM;
RICO; ECT; JDA; AR - HOBBS ACT, OO: CHICAGO.

REMYTELS [] JUNE 12, 1974, AND SEPTEMBER 2, 1974.

FOR INFORMATION OF BUREAU, ECT PORTION OF THIS
MATTER REGARDING SUBJECTS SAM ANNERINO AND []
SET FOR TRIAL USDC, CHICAGO, SEPTEMBER 23, 1974. CASE
AGENT PRESENTLY INVOLVED IN MULTI-DEFENDANT TRIAL
WHICH NOT EXPECTED TO TERMINATE BEFORE ABOVE TRIAL
COMMENCES.ON SEPTEMBER 19, 1974, CHICAGO STRIKE FORCE ATTORNEY
[] ADVISED SA [] SAN JUAN DIVISION,
NECESSARY GOVERNMENT WITNESS THIS MATTER AND DUE TO
UNAVAILABILITY OF CASE AGENT, [] ^{ALSO} WILL ASSIST AT
GOVERNMENT COUNCIL TABLE.UACB, SA [] REQUESTED TO BE IN CHICAGO NO
LATER THAN 8:00 a.m., SEPTEMBER 23, 1974.RPC/ji
(1) ji

Approved: _____

Special Agent in Charge

Sent _____ M

Per _____

U.S. Government Printing Office: 1972 - 455-574

b6
b7c

179-501-69

Ram
Ram

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, Chicago (100-501)

FROM : SA Richard P. Cunningham

SUBJECT: SAM ANWARING, aka, ET AL;
RICO; EET; JDA

DATE: 9/30/74

On 9/23/74 Chicago Strike Force Attorney [redacted] advised that the trial in this matter set for 9/23/74 before Judge WILLIAM J. LYNCH, USDC, NDS, Chicago, had been postponed until 11/4/74 due to commitment of defense attorneys.

b6
b7C

[Signature]
RFM

100-501-70
Cum Cum

[Signature]



5010-108-02

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/6/74

[redacted] was interviewed at his request in the office of [redacted] Chicago Strike Force Attorney, and after reading and executing a waiver of rights form and acknowledging he was aware that anything he said could be held against him in a court of law, he furnished the following information:

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He first started doing business with [redacted] of [redacted] in 1969. [redacted] business was slow and [redacted] inquired if [redacted] could use some of [redacted] trucks. He agreed to do so and that was their first business venture together.

At this time, he was doing business as [redacted] and was licensed to carry freight only in Chicago and the Chicago commercial zone. [redacted] authority with the Illinois Commerce Commission and Interstate Commerce Commission allowed [redacted] to carry freight to and from the State of Illinois within a 50 mile radius of Chicago.

There was a truck strike in 1970 and after it ended in about October of that year, [redacted] had its place of business at [redacted] in Chicago. He and [redacted] were still doing business together and they had filed a phony lease agreement with the Illinois Commerce Commission as a legal base upon which to carry on their business. He utilized [redacted] interstate authority through this lease agreement to carry freight out of the State of Illinois. In return for the use of this authority, he paid [redacted] ten per cent of the gross invoice.

One of his salesmen, [redacted] (phonetic) obtained the freight account for [redacted] Illinois. To get this account, he had to pay one of the officials at [redacted] one [redacted] five per cent of the gross invoicing per week. [redacted] began hauling freight for [redacted] from Morris, Illinois, to various railroad yards in Chicago and some loads interstate. [redacted] was billed

Interviewed on 5/30/74 at Chicago, Illinois File # CG 179-501-71

SAs RICHARD P. CAVANAGH & *RPC*

by [redacted] *RPC/jer* Date dictated 6/3/74

exclusively by [] and paid all the freight charges to []. There was a prefix on each bill with [] standing for [] and [] standing for []. These prefixes allowed them to determine what percentage of the gross invoicing was attributable to each company. When [] received the total amount due from [] would pay [] 90 per cent of their gross invoicing and they usually settled up on a weekly basis.

He changed the name of the company from [] to [] and shortly thereafter incorporated as []. He acknowledged that he was not an official in [] but stated he was the sole proprietor of same. When asked why his bills read [] rather than [], he replied that when he initially thought of the name [] he called down to Springfield, Illinois, to ascertain if they could use the name []. He was told that [] was a good name so they had their bills and stationery printed up with that name. He subsequently learned that he could not use the name [] so he incorporated it as [] and attorney [] filed the articles of incorporation with the State of Illinois.

In early 1973, he and [] were hauling a great deal of freight from [] in Morris, Illinois. [] was running three trucks and [] was running three or four trucks for []. Each week, [] kept ten per cent of the money due [] for the use of his interstate authority and paid [] only 90 per cent of the money due them. He said that [] knew [] had to pay five per cent of the gross invoicing to [] on a weekly basis and that [] gave him five per cent of [] weekly freight charges with []. At this time, most of their freight was being taken from [] plastic plant in Morris, Illinois, to railroad yards in the Chicago area, with some small shipments going interstate. All of [] trucks had [] painted on their doors.

Just before September of 1973 when he knew he was going to jail, he told [] that all he wanted was for [] to run a few trucks for [] and that the rest belonged to []. He told [] that he just wanted him to help [] out if she had any problems while

he was in jail. At this period of time, he was paying [] ten per cent and RODRIGUEZ five per cent of each weekly gross invoicing from [] in turn was paying him five per cent of [] gross invoicing to pay to []. When he was asked who paid [] his five per cent when he went to jail, [] replied that [] must have paid him because [] did not. [] was completely aware of the five per cent gross kickback to [].

b6
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In early 1974, [] kicked [] out of the [] contract and took over the whole account for himself. Both [] had been carrying Containerized Freight at a reduced rate for [] was fully aware of this reduced rate. After [] kicked [] out of the [] contract, [] went to [] threatening to tell all about the reduced rates if [] did not continue to utilize [] as a freight carrier. [] called [] saying that they were going to settle with [] for \$10,000.

After [] was kicked out of the [] contract, [] came to visit him in jail at the Marion Federal Penitentiary, (MFP), Marion, Illinois, and told him what had happened. She also said that [] owed [] \$5,000 and asked him what she should do about it. He said he told [] to file a complaint with the Illinois Commerce Commission and gave a note to [] for [] which told [] not to blackball [] because he knew about the reduced rates at the time he was doing business with []. When asked if [] told him that she made the statement in front of witnesses that she would "get a gun and shoot [] balls off", he replied that [] had told him that she made such a statement.

A short time later, he received a letter from [] saying that she had collected the money from [] and related that he could never guess who collected it. In February, 1974, [] again visited him at the MFP and told him that SAM ANNARINO and [] had collected the money for her from []. He came home on furlough from MFP on Sunday, March 10, 1974, and spent that entire day with []. On Monday, he called [] at [] and made an appointment to have lunch with him the next day. Tuesday, he and [] had lunch

with [] and discussed [] threats to []. He told [] that he needed [] freight business for his trucks in order that he might have an income for [] while he was in jail and [] said that if he could get [] authority back, [] would be given cartage loads from []. The next day, Wednesday, he called [] and told him to meet him at []. [] initially refused to meet with him but agreed to do so when [] said "meet me or else someone else will talk to you". He said he was aware that [] was afraid and that he was using that fear to make [] meet with him. He knew that ANNARINO and [] had beat [] up and that by making such a statement, [] would "let his mind do the work, and thinking of the beating would become more afraid." When asked how he knew that ANNARINO and [] had beat up [] he first said that [] told him "We punched him" and that [] said he would pay him the money as soon as he could clean up. He was specifically asked if [] said that he, [], had struck [] and [] said hesitatingly that he could not recall. [] finally agreed to meet with him and they met at approximately 7:00 or 8:00 p.m. that evening at []. [] said that he had been drinking quite a bit during the day and that [] drove him over to []. At [], he told [] that he wanted three trucks to go back to work at [] using [] authority. [] at first refused to let [] use his authority but after he slapped [] finally agreed to do so. He said that he let [] believe during this discussion that he had arranged the collection of the money from []. [] said that he had overpaid the two men that collected the money and [] owed him money in return.

The next day he called [] and discussed this overpayment. He said that he had some [] bills which had not been sent to [] to be forwarded to [] so he told [] he would mail them to him. [] said that he paid the two men \$5,200 and that ten per cent of that was his and that he got cheated out of it. He said that he told [] that they both had lost money.

When asked when he was going to tell about [] [] said that he had called [] that same night that he met [] at [] and had [] meet him on a street corner on 95th Street. He said that he was aware that [] had been [] and said that [], while working as a mechanic on [] trucks, always kept one truck in for repairs leaving [] only two trucks on the road. [] therefore had

to lease some of [] trucks to use. [] then said that he did not want to say anything more about [] at this time.

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It was pointed out to [] that he was the one that instigated this interview and that he had related from the beginning that he was going to tell everything about the crime for which he had been arrested. [] then related as follows:

He has known [] for some time as [] was a mechanic at []. In August of 1973, just before he went to jail, he told [] to keep the trucks up for [] to use his garage at [] as a place to repair [] trucks.

He then related that [] before [] went to jail, stole a brand new truck on Chicago's south side. [] helped him steal it and then [] stripped it down and rebuilt it with a glider kit. He did not know the make of the truck but said it had a Detroit diesel engine and by rebuilding it, [] was able to get a new title for it. [] sold the front bumper from this tractor trailer truck and its exhaust system to [] which she then put on a 1965 GMC owned by [].

When [] came to visit him at MFP, she told him that [] had been overbilling her for repair work done on [] trucks. He was mad because [] was taking advantage of [] in their business dealings. The evening he met [] at [] told him that []. He said that he became upset with this but when asked did not he, in fact, know that [].

[] he replied that he was well aware of that fact. That same night that he met [] at [] he called [] and asked [] to meet him on the street corner on 95th Street. When [] showed up, he punched [] a "couple of times" and then [] "beat on him". He said [] was vicious and kicked []. He tried to pull [] off but [] was mad and did kick [] several times. He stated that the whole fight was over

"real quick" and that there were only "a few punches and a few kicks". When told that there were witnesses to the effect that this beating and stomping of [] went on for many, many minutes, he replied "no, it was real quick". He said that the police took he and [] and [] to the station house but [] did not sign a complaint. [] could not find the car keys so [] drove the three of them to [] house. At this point, he said that the main reason he had beat [] was because

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b7C

[] When the three of them were in [] house, [] who was still mad, got a pocket knife from his room and then threatened [] with it, telling [] to "stay away from []". He told [] to put the knife away and then made [] sign a receipt showing that [] been paid in cash for about \$3,000 worth of repairs done to [] trucks. When [] was signing this receipt, [] said "You've been paid for the repairs with []". Then he told [] that [] had hurt [] feelings and that he should pay [] \$1,000. [] said that he would make out a check for that amount. The three of them then went to [] house where he told [] that [] then kicked [] and said "You better have that check sent to me." When asked if [] did not in fact kick [] in the groin and then punch him in the stomach, [] said that "No, he only kicked him."

The next day, [] called him and said that if he wanted \$1,000, he could come over to [] and get it. He told [] that he was not going to come over and for [] just go put the check in the mail.

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, CHICAGO (179-501) ✓

DATE: 10/10/74

FROM : SA RICHARD P. CAVANAGH

SUBJECT: [REDACTED] aka;

ET AL

RICO; ECT; JDA; AR-HOBBS ACT
(OO: CHICAGO)

b6
b7C

The ECT charge in this case against ANNARINO and [REDACTED] will be tried before USDC Judge WILLIAM J. LYNCH, NDI, Chicago, on 11/4/74.

On 10/9/74, USDC Judge HUBERT L. WILL, NDI, Chicago, set the AR-Hobbs Act trial of [REDACTED] in this matter for the same date, 11/4/74 (74CR666).

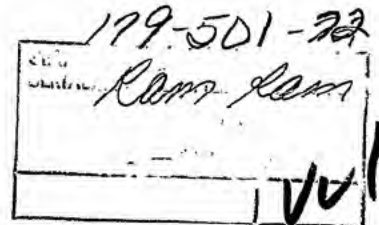
RPC/sam

(1)

Sam
RPC



5010-110



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

F B I

Date:

PLAIN

Transmit the following in
TELETYPE NITEL (Type in plaintext or code)

Via (Priority)

32

TO DIRECTOR (183-121)

SAN JUAN (VIA WASHINGTON)

FROM CHICAGO (179-501)

[] ET AL; [] - VICTIM; RICO, ECT;

DA; AR - HOBBS ACT. 00: CHICAGO.

REMYTEL SEPT. 19, 1974.

ECT PORTION OF THIS MATTER RE SUBJECTS SAM ANNERINO AND

[] FIRMLY SET FOR TRIAL USDC, CHICAGO, NOVEMBER 4, 1974.

AR-HOBBS ACT PART OF THIS CASE RE SUBJECT [] ALSO SET
FOR TRIAL USDC, CHICAGO, NOVEMBER 4, 1974, BEFORE DIFFERENT
JUDGE.

ON OCTOBER 25, 1974, CHICAGO STRIKE FORCE ATTORNEY []

[] ADVISED SA [] SAN JUAN DIVISION NECESSARY GOVERN-
MENT WITNESS IN BOTH ABOVE MENTIONED TRIALS AND WILL ASSIST
AT GOVERNMENT COUNSEL TABLE IN ECT CASE.UACB SA [] REQUESTED TO BE IN CG FOR PRE-TRIAL NO LATER
THAN 9:00 AM, NOVEMBER 1, 1974.

179-501-73

WA 8 44 (HS) []

[]
[]Approved: HVB
Special Agent in Charge

Sent M Per

F B I

Date: 11/12/74
PLAINTEXTTransmit the following in _____
(Type in plaintext or code)~~TELETYPE~~ FACSIMILE

NITEL

Via _____
(Priority)

TO: DIRECTOR, FBI (183-121)

FROM: SAC, CHICAGO (179-501)

C-1

[] ET AL; [] - VICTIM;
RICO; ECT; JDA; AR - HOBBS ACT. OO: CHICAGO.
REMYTEL OCTOBER 25, 1974.

b6
b7c

TRIAL ON ECT PORTION OF THIS MATTER REGARDING
SUBJECTS SAM ANNERINO AND [] HEARD BEFORE
JURY IN USDC, CHICAGO, NOVEMBER 6, THRU NOVEMBER 11,
1974. GUILTY VERDICT AS TO BOTH ANNERINO AND []
RETURNED NOVEMBER 11, 1974, ON ONE COUNT ECT INDICTMENT.
SENTENCING SET FOR NOVEMBER 20, 1974.

TRIAL IN AR - HOBBS ACT PART OF THIS CASE REGARDING
SUBJECT [] CONTINUED TO NOVEMBER 14, 1974,
WITH [] ATTORNEY NOW INDICATING GUILTY PLEA
PROBABLE. BUREAU WILL BE KEPT ADVISED OF DEVELOPMENTS.

CHIEF

[]

[]

1- C-1 Tickler
1- 92-1839

WA-DEW - 945/p-

Approved: *Hov*

Special Agent in Charge

Sent _____

M

Per _____

FBI

Date: 11/13/74

010

Transmit the following in CODE
(Type in plaintext or code)

Via TELETYPE NITEL
(Priority)

TO : DIRECTOR (183-121)

FROM: SAC, CHICAGO (179-501)

[] ET AL; [] - VICTIM; RICO; ECT;
JDA; AR - HOBBS ACT. OO: CHICAGO.

b6
b7C

REMYTEL NOVEMBER 12, 1974, CONCERNING RETURN OF GUILTY
VERDICT IN USDC, CHICAGO AGAINST SAM ANNERINO AND [] ON
NOVEMBER 11, 1974, FOR ECT VIOLATION (USE OF EXTORTIONATE MEANS
TO COLLECT DEBT, TITLE 18, USC, SECTION 800).

DURING EVENING OF NOVEMBER 11, 1974, SEVERAL HOURS AFTER
GUILTY VERDICT RETURNED AGAINST ANNERINO AND [], MAIN
GOVERNMENT WITNESS IN ECT CASE, [] OWNER OF []
[] HAD THREE TRUCKS VANDALIZED. DAMAGE ESTIMATED AT
\$1,000 AND [] EXPRESSED FEAR OF TESTIFYING AGAINST []
[] IN HOBBS ACT TRIAL SET FOR NOVEMBER 14, 1974, IN USDC,
CHICAGO.

ON NOVEMBER 13, 1974, GOVERNMENT'S MOTION TO REVOKE []
BOND PENDING SENTENCE AND APPEAL HEARD BY USDC JUDGE WILLIAM LYNCH,
WHO HEARD ABOVE ECT CASE. MOTION SUPPORTED BY BUREAU AGENT

1 - C#1 TICKLER
1 - 92-1839

RPC/vel
(3)

WA 808 M 179-501-75

Approved: RGH/g
Special Agent in Charge

Sent _____ M Per _____

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)Via _____
(Priority)CG 179-501
PAGE TWO

AFFIDAVIT WHICH SET FORTH [] EXTENSIVE CRIMINAL RECORD INCLUDING FOUR CONVICTIONS AND HIS PROPENSITY FOR VIOLENCE AS EVIDENCED BY HIS CONVICTION FOR ARMED ROBBERY AND HIS PARTICIPATION IN THE VIOLENT EXTORTION OF VICTIM [] ALSO INCLUDED WERE SERIES OF THREATS OF VIOLENCE AGAINST GOVERNMENT WITNESS³ AS WELL AS ~~UNTIMELY~~ ^{UNTIMELY} DAMAGE TO [] TRUCKS. JUDGE LYNCH EXPRESSED INDIGNATION AND RAGE AFTER READING SAID MOTION AND REVOKED [] BOND AND IMMEDIATELY ORDERED HIM INTO CUSTODY OF USM, CHICAGO, AS A DANGER TO THE COMMUNITY. NOTED SUBJECTS ANNERINO AND [] ARE PRESENTLY INCARCERATED.

b6
b7c

CHICAGO STRIKE FORCE ^{PARING} UNDER ADVISEMENT POSSIBLE OOJ PROSECUTION OF [] IF ALLEGATIONS CONCERNING SERIES OF THREATS AGAINST GOVERNMENT WITNESS³ CAN BE ESTABLISHED.

BUREAU WILL BE KEPT ADVISED OF DEVELOPMENTS.

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

(Mount Clipping in Space Below)

Extortionist's bond revoked

JAMES [HAWK] FALCO, convicted Tuesday of extortion, was ordered jailed without bond Wednesday after trucks belonging to the government's star witness were damaged by vandals. Federal Court Judge William J. Lynch revoked Falco's \$20,000 bond after assistant U. S. Attys. Joseph Walsh and Terrence Norton charged that the vandalism was in retaliation for the testimony of Robert Rankin, 40, owner of Illinois Express Co., 43 W. Harrison St., Oak Park. Falco, 51, of 344 Eaton Rd., Romeoville, and Samuel Annerino, 31, of 6353 W. 79th St., Burbank, were convicted Tuesday of beating and threatening to kill Rankin last Jan. 31 over a \$5,000 debt.

(Indicate page, name of newspaper, city and state.)

9 CHICAGO TRIBUNE
CHICAGO, ILLINOIS
SECTION 2

c-1
Date: 11/14/74
Edition: SPORTS FINAL
Author:
Editor: C. KIRKPATRICK
Title:

ETAL, ECT b6
Character: b7C

or 179-501
Classification:
Submitting Office: CHICAGO

~~Being Investigated~~
COPY SENT TO BUREAU

179-501-76

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 14 1974	
FBI-CHICAGO	

lvb

Extortion victim hit by vandals

(Mount Clipping in Space Below)

THREE TRUCKS belonging to an Oak Park businessman were damaged by vandals Tuesday only hours after two hoodlums were convicted of extorting \$5,000 from him.

James Falco, 51, of 344 Easton Rd., Romeoville, and Samuel Annerino, 31, of 6353 W. 19th St., Burbank, both of whom have been linked to the crime syndicate, were found guilty by a jury in Federal District Court Monday night of beating and threatening to kill Robert Rankin, 40, owner of Illinois Express Inc., 43 W. Harrison St., Oak Park, to force him to pay a \$5,000 debt they said he owed.

The beating Jan. 31 was inflicted mainly by Annerino, a former light heavyweight boxer who participated in the 1968 Olympics, prosecutors said.

THE BEATING took place in Rankin's garage at 5434 S. Parkside Av., where Tuesday morning workers found three semitrailer trucks vandalized. The Federal Bureau of Investigation is investigating.

Terrence Norton and James Walsh, federal prosecutors, said Falco and Annerino accused Rankin of owing money to Vernon Richards, president of Thunderbird Trucking & Warehouse, Inc., 5806 W. 98th St., Oak Lawn. At the time Richards was serving time in prison for theft.

(Indicate page, name of newspaper, city and state.)

17 CHICAGO TRIBUNE
CHICAGO, ILLINOIS
SECTION 3

c-1
Date: 11/13/74
Edition: SPORTS FINAL
Author:
Editor: C. KIRKPATRICK
Title:

ETAL, ECT

Character: 179-501 b6
or b7C

Classification:
Submitting Office: CHICAGO
COPY SENT TO BUREAU
☐ Being Investigated

179-501-77

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 14 1974	
FBI - CHICAGO	

F B I

Date: 11/20/74

PLAINTEXT

Transmit the following in _____

(Type in plaintext or code)

TELETYPE

NITEL

Via _____

(Priority)

TO : DIRECTOR, FBI (183-121)

FROM: SAC, CHICAGO (179-501)

[REDACTED] ET AL; [REDACTED]

RICO; ECT;

JDA; AR-HOBBS ACT, OO: CHICAGO

REMYTELS NOVEMBER 12 AND 13, 1974, RE RETURN OF
GUILTY VERDICTS IN USDC, CG, ON NOVEMBER 11, 1974, AGAINST
SAM ANNERINO and [REDACTED] FOR ECT VIOLATION AND [REDACTED]
BOND REVOCATION AND INCARCERATION ON NOVEMBER 12, 1974.

ON NOVEMBER 20, 1974, USDC JUDGE WILLIAM J. LYNCH,
CHICAGO, SENTENCED ANNERINO TO FIVE YEARS CUSTODY OF AG
WITH SAME TO RUN CONSECUTIVE WITH TWO YEAR SENTENCE
ANNERINO PRESENTLY SERVING. JUDGE LYNCH SENTENCED [REDACTED]
TO THREE YEARS CUSTODY OF AG PLUS THREE YEARS PROBATION
AFTER SAID INCARCERATION TERMINATES. JUDGE LYNCH
ADAMANTLY REFUSED TO REINSTATE [REDACTED] BOND PENDING APPEAL
AND [REDACTED] REMANDED TO CUSTODY OF USM, CHICAGO. 179-501-79

1 - C-1 TICKLER

1 - 92-1839

VLI/lap
(3)

SEARCHED

SERIALIZED

INDEXED

FILED

Approved: REH/gp

Special Agent in Charge

Sent 7:15p

M

Per Sam

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

PAGE TWO

CG 179-501

TRIAL IN AR-HOBBS ACT PART OF THIS CASE RE SUBJECT

FINALLY COMMENCED NOVEMBER 14, 1974,

WITH JURY VERDICT EXPECTED NOVEMBER 21, 1974.

REPORT FOLLOWS. BUREAU WILL BE KEPT ADVISED OF
DEVELOPMENTS.

b6
b7c

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

FBI

Date: 11/21/74

PLAINTEXT

Transmit the following in _____
(Type in plaintext or code)Via FACSIMILE NITEL
(Priority)TO: DIRECTOR, FBI ~~(183-121)~~ C-1

FROM: SAC, CHICAGO (179-501)

[redacted]; ET AL; [redacted]; RICO;
ECT; JDA; AR - HOBBS ACT, OO: CHICAGO.

REMYTEL NOVEMBER 20, 1974 RE SENTENCING OF [redacted]

[redacted] AND SAM ANNERINO THAT DATE ON ECT GUILTY VERDICTS.

AS BUREAU AWARE, AR - HOBBS ACT PORTION OF THIS CASE
RE SUBJECT [redacted] COMMENCED NOVEMBER 14, 1974 AND
ON NOVEMBER 21, 1974, JURY RETURNED A VERDICT OF GUILTY.

JUDGE WILL SENTENCED SUBJECT [redacted] TO SIX MONTHS
IN CUSTODY OF AG AND FOUR AND A HALF YEARS PROBATION.
REPORT FOLLOWS AND BUREAU WILL BE ADVISED OF DEVELOPMENTS.

b6
b7c

3-Chicago
1- 92-1839
1-C-1 Tickler

VLI:kag
(3) pag

179-501-81

SEARCHED	_____
SERIALIZED	_____ <i>Sam</i>
INDEXED	_____
FILED	_____ <i>Sam</i>

WA-DCW-910p- *two*Approved: RGH/gp

Special Agent in Charge

Sent _____ M Per _____

U.S. Government Printing Office: 1972 - 455-574

(Mount Clipping in Space Below)

2 sentenced for terrorism in collecting

Two low-level crime syndicate associates were sentenced Wednesday to prison terms for terror tactics in collecting a \$5,000 loan from a businessman.

U.S. District Court Judge William J. Lynch imposed a five-year prison term on Samuel Annerino Jr., 31, and a three-year term on James J. Falco, 51.

Annerino, serving a two-year federal sentence for a similar conviction, and Falco were found guilty Nov. 10 by a jury. They were charged with using extortionate tactics to collect a loan from Robert Rankin, 40, president of Illinois Express Inc., an Oak Park trucking company.

Rankin testified at the trial that Annerino beat him severely with his fists and that both men threatened to break his bones with a baseball bat and to kill him with a shotgun.

Terrence Norton and James Walsh, of the Justice Department's Organized Crime Strike Force, described the two as syndicate associates and told the judge that Rankin's trucks were vandalized the day after the jury verdict.

(Indicate page, name of newspaper, city and state.)

80 CHICAGO SUN TIME
CHICAGO, ILLINOIS

C-1

Date: 11-21-74

Edition: 4th FINAL

Author:

Editor: JAMES HOGUE

Title:

ETAL; RICO, ECT
AR b6

Character: b7C

or 179-501

Classification:

Submitting Office: CHICAGO

COPY SENT TO BUREAU

179-501-82

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 21 1974	
FBI - CHICAGO	

FEDERAL BUREAU OF INVESTIGATION

L

Date of transcription December 9, 1974

[redacted]
furnished the following information:

[redacted] advised that SAM ANNERINO, JR. had invested \$3500 in a beauty shop [redacted]. The beauty shop went bankrupt and [redacted] ANNERINO had an argument over money and ANNERINO threatened [redacted] around the Summer of 1973.

b6
b7C
b7D

Interviewed on 12/5/74 at [redacted] File # SD 87-6730

by SA LENARD A. WOLF vkiv Date dictated 12/9/74

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

SAC, CHICAGO (15-33541)

1/2/75

SAC, SAN DIEGO (87-6730) (RUC)

[REDACTED]
ET AL
TIPS; ITSP
OO: Chicago

Re Chicago airtel to San Diego, 11/27/74.

Enclosed for Chicago are three (3) copies of an FD-302 of the interview of [REDACTED] by SA LEONARD A. WOLF at [REDACTED] on 12/5/74.

b6
b7C
b7D

It is to be noted that if this information is disseminated, the location of the interview and the name of SA WOLF should be deleted, since [REDACTED] is in protective custody and his location should be carefully concealed.

3-Chicago (Enc. 3) (RM)
(2--15-33541)
(1--91-11113)
2-San Diego
(1--87-6730)
(1--91-5360)
LW:cmf
(5)

ORIGINAL
IN
15-33541

179-501-84

~~15-33541-1127~~
Cavanaugh C

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE CHICAGO	OFFICE OF ORIGIN CHICAGO	DATE 1/23/75	INVESTIGATIVE PERIOD 4/10/74 - 11/21/74
TITLE OF CASE [REDACTED] ET AL		REPORT MADE BY SA RICHARD P. CAVANAGH	TYPED BY pjl b6 b7C
		CHARACTER OF CASE RICO; ECT; JDA	

REFERENCES: Chicago report of SA [REDACTED] dated 4/9/74. b6
Chicago teletypes to Bureau dated 11/20/74 and 11/21/74. b7C

- P* -
C

ENCLOSURES

TO THE BUREAU

1. One (1) Disposition Sheet on SAM ANNERINO, FBI
Number 899 736 D.

2. One (1) Disposition Sheet on [REDACTED] FBI
Number [REDACTED]

3. One (1) Disposition Sheet on [REDACTED]
FBI Number [REDACTED]

ACCOMPLISHMENTS CLAIMED					<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	FUG.	FINES	SAVINGS	RECOVERIES			
3							PENDING OVER ONE YEAR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

APPROVED

SPECIAL AGENT
IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:

- 3 - Bureau (183-121) (Enc. 3)
1 - USA, Chicago
2 - AIC, Chicago Strike Force
① - Chicago (179-501) *RPC* *PJB*

SEARCHED

SERIALIZED

INDEXED

FILED

b6
b7C

Dissemination Record of Attached Report

Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

CG 179-501

ADMINISTRATIVE

The investigative period of this report is noted as being extensive; however, all investigation herein had been completed with the exception of the actual trial and the Bureau has been kept advised of pertinent developments.

This case is being placed in a Pending Inactive status for 90 days and thereafter it will be determined if an appeal has been undertaken.

- B* -

COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 1 - USA, Chicago
2 - AIC, Chicago Strike Force. [redacted]
(Attn: [redacted])
Report of: SA RICHARD P. CAVANACH Office: Chicago
Date: 1/23/75

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b7C

Field Office File #: 179-581

Bureau File #: 103-121

Title: [redacted]
LT AL

Character: RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS;
EXTORTIONATE CREDIT TRANSACTIONS;
JUVENILE DELINQUENCY ACT

Synopsis: On 11/11/74, [redacted] and SAM ANNERINO found guilty of ECT violation (18 USC 894) by jury in USDC, NDI, Chicago. Victim witness had trucks damaged evening of 11/11/74 and on 11/13/74 [redacted] bond revoked as danger to community. On 11/20/74, ANNERINO sentenced to five years custody of AG, same running consecutive with present sentence; [redacted] sentenced to three years custody of AG and three years probation. [redacted] found guilty on 11/21/74 of Hobbs Act violation (18 USC 1951) by jury in USDC, NDI, Chicago, and sentenced same date to six months custody of AG and 4 1/2 years probation.

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- pa -

DETAILS:

On November 11, 1974, after a jury trial lasting from November 6, 1974, to November 11, 1974, SAM ANNERINO and [redacted] were found guilty of violating the Extortionate Credit Transactions Statute, Title 18, Section 894, United States Code (USC), in United States District Court (USDC), Northern District of Illinois (NDI), Chicago, Illinois. Sentencing by USDC Judge WILLIAM J. LYNCH was set for November 20, 1974.

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The evening of November 11, 1974, the chief government witness in the above trial, [REDACTED] had three of his trucks maliciously damaged. On November 13, 1974, Judge LYNCH revoked [REDACTED] \$20,000 bail pending both sentencing and notice of appeal, stating [REDACTED] presented a danger to the community. Subject ANNERINO's prior Federal probation had been revoked subsequent to his arrest in this case on March 18, 1974, and he was incarcerated prior to November 11, 1974.

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On November 20, 1974, Judge LYNCH sentenced ANNERINO to five years in the custody of the Attorney General (AG) of the United States (US) with same to run consecutively with his present two-year term of incarceration for violating the terms of his Federal probation. Judge LYNCH, also on November 20, 1974, sentenced [REDACTED] to three years in the custody of the AG of the US and three years probation thereafter.

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On November 21, 1974, after a one-week jury trial, [REDACTED] was found guilty of violating the Hobbs Act Statute, Title 18, Section 1951, USC, in USDC, NDI, Chicago, Illinois. That same day, November 21, 1974, Judge HUBERT L. WILL sentenced [REDACTED] to six months in the custody of the AG of the US and four and one-half years probation thereafter. [REDACTED] six months incarceration was to run concurrently with the remainder of his present Federal sentence.

Brief for the U.S.

74-1970

Filed 2/18/75

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IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 74-1970

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

vs.

SAMUEL ANNERINO AND JAMES FALCO, a/k/a "HAWK"

Defendants-Appellants.

Appeal from the United States District Court
for the Northern District of Illinois,
Eastern Division
Honorable William J. Lynch, District Judge

BRIEF FOR APPELLEE

ISSUES PRESENTED FOR REVIEW

- I. Whether the evidence adduced at trial proved the existence of an "extension of credit?"
- II. Whether the government erroneously withheld from defendants certain statements of its witness which should have been provided to them pursuant to 18 U.S.C. § 3500?
- III. Whether the jury was properly instructed and whether the trial court erred in refusing defendants' tendered instructions?

STATEMENT OF FACTS

Defendants-appellants Samuel Annerino and James Falco were named in a one-count indictment charging them with collecting an extension of credit by the use of extortionate means in violation of 18 U.S.C. § 894.

Following a jury trial, both defendants were convicted. Judge Lynch imposed a five-year term of imprisonment as to Annerino, with the term to run consecutively to a two-year term which Annerino presently is serving. Falco was sentenced to a term of three years incarceration. The evidence adduced at trial may be briefly summarized as follows.

Robert Rankin, president and part owner of Illinois Express, a trucking company which hauls interstate and intrastate shipments within the State of Illinois, had been employed in various capacities in the trucking business for approximately twenty-two years. (Tr. 16-18). Illinois Express was possessed of certificates from the Illinois Commerce Commission and the Interstate Commerce Commission which authorized it to pick up and deliver merchandise outside the Chicago commercial zone. (Tr. 20). Rankin was also an employee of Barr Cartage, a company which leased trucks to Illinois Express. (Tr. 80-81, 165-66). According to Rankin, such a relationship between a trucking company and a leasing company is common practice within the trucking industry.

In the early part of 1970, Rankin became acquainted with

Vernon Richards who, to the best of Rankin's knowledge, was in the business of renting or leasing tractors and drivers to interstate carriers for deliveries of their surplus business. (Tr. 18-19). Richards' company did not own the appropriate certificates from the Illinois Commerce Commission and the Interstate Commerce Commission, and therefore his company could only act as an agent for properly authorized interstate carriers or else remain within the Chicago area. (Tr. 20).

In the latter part of 1970, Richards approached Rankin with a proposed business deal. He explained that, but for the lack of a proper certificate, he would be able to obtain enough business to keep his trucks moving. Subsequently Rankin, on behalf of Illinois Express and Richards, on behalf of Richie Motor Service, entered into a lease of equipment agreement whereby Illinois Express agreed to lease trucks belonging to Richards' company, thereby allowing these trucks to operate under the authority granted to Illinois Express. Any revenue generated under this arrangement was to be divided 90%/10%, with Richards getting the larger share. (Tr. 21).

In working out the mechanics of that business arrangement, the parties agreed that Richards would not be paid for performing his services as an agent of Illinois Express until such time as the customers, whose merchandise had been hauled by Richards, had paid Illinois Express. (Tr. 22, 28) (Gvt. Ex. 1A, 1B and 1C).

The documents reflecting the business arrangement were explained by Rankin thusly. The pink invoices represented the

various jobs handled by Richards' company, on the dates indicated, during the period between February 4, 1972, and March 27, 1972. (Govt. Ex. 1A). These jobs were then listed on the white "statement" presented by Richards to Illinois Express. (Tr. 29-30). The customer might pay Illinois Express for those separate jobs with different checks sent at different times; and, pursuant to their agreement, Rankin would not give any payment to Richards' company until all the jobs listed on a given statement had been paid for by the customer. (Tr. 162-64). Thus, Richards was not paid for the work performed during the period between February 4, 1972, and March 27, 1972, until a check was issued by Illinois Express on April 7, 1972. (Tr. 30-31)(Govt. Ex. 1A).^{1/}

In September of 1973, at a time when Richards was doing business under the name Thunderbird Trucking and Warehouse, he was sent to prison, and his wife Ruth assumed control of Thunderbird. Thereafter, Thunderbird continued to be paid by Illinois Express pursuant to the arrangement outlined above. (Tr. 32-33).

On January 14, 1974, Rankin notified Northern Petrochemical, a business whose freight had been hauled by Thunderbird pursuant to the arrangement detailed above, that Illinois Express was terminating its relationship with Thunderbird Trucking and that

^{1/} Government Exhibits 1B and 1C reflect that this same arrangement was still in effect during November and December, 1973, and January, 1974.

the latter would no longer be permitted to operate under Illinois Express' authority. He also notified Mrs. Richards of his action during a conversation on the same day. (Tr. 43).

During a second conversation on that day Mrs. Richards demanded payment in full of all the bills due as of that date. Fearing that certain liabilities might arise against Illinois Express because of actions taken by Thunderbird, Rankin refused to comply with her request. He pointed out to her that the customers had not yet paid Illinois Express. (Tr. 52).

On January 31, 1974, Annerino and Falco entered the Ross Service Garage and asked to speak to Rankin. Falco presented a group of bills representing work done by Thunderbird Trucking. (Govt. Ex. 2). Rankin acknowledged that he did owe some money to Thunderbird.

Following this confrontation, both defendants threatened Rankin, making reference to the use of a shotgun to blow his head off and of a baseball bat to break his kneecaps. Then in an unprovoked attack, Annerino, using his fists, battered Rankin against the wall and then to the ground. Dazed, Rankin agreed, at Annerino's prompting, to travel to his bank for a check in payment of the bills which had been presented to him. (Tr. 53-59). Ultimately Rankin gave the defendants a check for approximately \$5,200, (Govt. Ex. 3), although he did not believe that he owed that amount. When he tried to explain to the defendants what he thought were discrepancies, he was told to pay the full amount. (Tr. 63). He subsequently discovered that the correct amount of the debt was \$4,500.. (Tr. 160).

ARGUMENT

I

THE EVIDENCE ADDUCED AT TRIAL DEMONSTRATED THE EXISTENCE OF AN "EXTENSION OF CREDIT"

Annerino and Falco contend that the government failed to establish the existence of an extension of credit, and that it therefore failed in its efforts to prove the use of extortionate means to collect an extension of credit in violation of 18 U.S.C.

§ 894. Section 894 provides in pertinent part:

- (a) Whoever knowingly participates in any way, or conspires to do so, in the use of any extortionate means
 - (1) to collect or attempt to collect any extension of credit, or
 - (2) to punish any person for the nonrepayment thereof, shall be fined not more than \$10,000 or imprisoned not more than 20 years, or both.

By way of definition, 18 U.S.C. § 891(1) provides that:

To extend credit means to make or renew any loan, or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or will be deferred. (Emphasis added).

Reference to the facts proven in this case demonstrates clearly that Robert Rankin of Illinois Express and Vernon Richards entered into a business agreement in 1970. The business generated by that agreement gave rise to debts owed by Illinois Express to Richards and his company or, alternatively, resulted in the creation of potential claims against Illinois Express by Richards. The evi-

dence also showed that the parties had agreed that the payment of those debts or the collection on the claims would be deferred. In short, the evidence clearly showed the existence of an extension of credit.

The agreement entered into by the parties involved the use by Richards' company of the authority issued by the Illinois Commerce Commission (ICC) to Illinois Express. This goal was achieved by means of a lease of equipment agreement. (Tr. 21, 156). Thus, Richards' company was to operate under the name of Illinois Express and as an agent of Illinois Express and Illinois Express was to lease Richards' equipment. (Tr. 133). In addition, Illinois Express, as the holder of an ICC certificate, was to do the billing of and collecting from customers. (Tr. 105). The parties also agreed that any revenue generated through this alliance was to be divided 90%/10% between Richards and Illinois Express. (Tr. 21).

Richards' company would haul for the customer, and Rankin would bill the customer. Periodically Richards would provide a "statement" to Rankin, setting forth the various jobs performed. The customer, having been billed by Illinois Express, would pay that company for these jobs anywhere from 10 days to three months after being billed. Consequently, at any given point in time, it might occur that four of ten jobs listed on a statement would have been paid for by the customer. Yet Rankin would not pay Richards' company until all the jobs on a given statement had been paid for

by the customer. (Tr. 162-64). This practice was consistent with the explicit agreement into which Richards and Rankin had entered. Under this agreement Richards, the agent, was not to be compensated for services rendered until Illinois Express, the principal, and been paid by the customer. (Tr. 22). This agreement was in effect from the beginning of their relationship to the end. The exhibits admitted into evidence at trial reflect not only the existence of this agreement but also the fact that it was still in effect at the time that Mrs. Richards demanded immediate payment of all money owing to Thunderbird. (Govt. Ex. 1A, 1B and 1C).

It is thus clear from the facts set forth in the record that, as a result of their agreement, certain monies were due and owing from Illinois Express to Thunderbird Trucking and Warehouse, Inc. Since the definition of "extension of credit" refers to any debt or claim, however arising, the debts or claims shown to exist in this case, having arisen through a business arrangement, are ^{2/} certainly within the ambit of the statute.

Moreover, the express agreement of the parties that Richards would not be paid for his work until the customers had

^{2/} Section 894 is not limited in its terms to a loan in the sense of money passing. Rather, the essence of the offense in the use of force or threats for the purpose of extorting money. See, e.g., United States v. Briola, 465 F.2d 1018, 1021-22 (10th Cir. 1972), cert. denied, 409 U.S. 1108 (1973).

paid is certainly an agreement to defer payment. Also to be considered is the fact that Richards would wait a day or two to pick up the money owing to him even after the customers had paid Illinois Express. (Tr. 135).

In United States v. Annerino, 495 F.2d 1159 (7th Cir. 1974), the issues presented were similar to those raised here. There White and Metrick shared an office. When this arrangement was terminated, White owed Metrick approximately \$3,500. Apparently this indebtedness arose through White's unauthorized use of Metrick's credit card. In an effort to collect this debt, the defendants threatened to harm both White and his family. In rejecting the contention that the government failed to establish an extension of credit, this Court relied on the breadth of the definition of extension of credit as set forth in § 891(1) and held:

The fact that White's indebtedness arose through his unauthorized use of Metrick's credit cards and misappropriation of partnership funds is irrelevant since § 891(1) applies to 'any debt ***, valid or invalid, and however arising.'

495 F.2d at 1166. Additionally, the court found that there was sufficient evidence of an agreement to defer since Annerino had told White to bring \$2,250 to their next meeting and that they would discuss the exact amount of the balance owing at that time.

In the instant case the evidence showing the existence of a debt, as outlined above, is much more extensive and convincing

than was the evidence in Annerino. Further, in this case the government's evidence of an explicit oral agreement to defer is much stronger than that relied on in Annerino. Therefore, the evidence was sufficient to establish an extension of credit.

II

THE FAILURE OF THE GOVERNMENT TO PRODUCE, PURSUANT TO 18 U.S.C. § 3500, CERTAIN STATEMENTS OF ITS WITNESS WAS NOT FATALY ERRONEOUS BECAUSE THE STATEMENTS WERE UNRELATED TO THE WITNESS' DIRECT TESTIMONY AND THE DEFENDANTS HAVE FAILED TO SHOW RESULTANT PREJUDICE.

Prior to the return of the indictment in this case, Robert Rankin, who was a witness for the government at trial, spoke with agents of the Federal Bureau of Investigation on four occasions and testified once before the grand jury. On each occasion he related, in narrative form, the following facts: the forming of a business relationship with Vernon Richards; Rankin's attempts to terminate that relationship; Mrs. Richards' demand for the money owed to her company; the beating suffered by Rankin at the hands of the defendants; and the payment by Rankin to the defendants of the money allegedly due and owing to Mrs. Richards. The beating and payment occurred on January 31, 1974, and it was this date that was set forth in the indictment.

However, Rankin's narrative, as told to the agents and the grand jury, did not cease with the events of January 31, 1974.^{3/}

The unexcised versions of his statements and the grand jury testi-

^{3/} The government produced for defense counsel those portions of the witness' statements and grand jury testimony which related to the events occurring up to and including January 31, 1974. It did not produce those portions relating to events subsequent to that date. Pursuant to the government's motion, this Court ordered, on February 12, 1975, that this case be remanded to the district court for the limited purpose of obtaining a determination on the productivity of the statements here at issue.

mony also describe subsequent conversations Rankin had with a Mr. Hessler, with defendants Falco and Annerino and with Vernon Richards. None of these conversations were mentioned by the witness on direct examination and none of them can really be said to relate to his direct testimony. In fact, most of the additional material which was not turned over to defense counsel relates to threats made by Vernon Richards to persuade Rankin to resume their prior business relationship.^{4/}

The question of whether the withheld statements related to Rankin's direct testimony requires a discussion of the facts contained in those statements. For purposes of this discussion, reference will be only to the grand jury minutes, since they contain a more detailed version of the transactions than those set forth in the agents' reports.

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Defense counsel received pages 25-44 of the grand jury minutes. Following is a summary of testimony contained in the remaining pages, which were not disclosed to defense counsel.

(A) Pages 44-47

The day after the beating Rankin called and spoke to Mr. Fred Hessler of IMX Trucking. Rankin already knew Hessler, and Falco had told Rankin that he, Falco, could be contacted at IMX

^{4/} This matter resulted in the return of a separate indictment against Richards.

if Rankin discovered that he had overpaid. Rankin discovered that he had overpaid. Rankin told Hessler that he had overpaid and was considering stopping payment of the check he had given the defendants. Hessler advised him not to do that and arranged to meet with Rankin later that day. Rankin knew that Hessler was a friend of Vernon Richards and he wanted to explain "his side" of the story, since the defendants had not inquired about that. Later that day he explained to Hessler his reasons for terminating the relationship. Hessler agreed to try to arrange a meeting between Falco, Mrs. Richards, Rankin and himself.

(B) Pages 47-50

A meeting was held between Rankin, Falco and Hessler on February 8, 1974. During this meeting Falco suggested that Rankin should go back into business with Richards' company and Rankin refused. However, Rankin stated that if Illinois Express were able to resume hauling for Northern Petrochemical Co., he would pay Mrs. Richards a sales commission until Mr. Richards was released from prison. He explained that Northern Petrochemical had dropped Illinois Express after January 14, 1974. Falco apparently favored Rankin's proposal.

(C) Pages 50-53

On February 19, 1974, Rankin had a telephone conversation

with Annerino, Falco and an unknown individual who referred to himself as "Pete." Annerino related that he had a potential business deal set up but needed Rankin's advice on the trucking business. He asked Rankin to have lunch to discuss the matter, but Rankin refused. Then Falco spoke briefly of the discussion which had been held on February 9, 1974. "Pete" then took the phone and began to shout obscenities at Rankin. "Pete" was apparently upset that Rankin had not contacted Falco earlier concerning the proposed sales commission for Mrs. Richards. Rankin was unaware of Pete's identity and did not know what Pete's stake was in the proposed deal.

(D) Pages 53-61

Rankin was contacted on March 12, 1974, by Vernon Richards. Richards wanted to meet with Rankin. Rankin, however, expressed his intention not to meet with Richards. Richards then suggested that he, Rankin, would have visitors again if he did not meet Richards. Accordingly, Rankin and Richards met at a restaurant and had a discussion. During this discussion, Richards implied that he had arranged for the beating which Rankin previously had suffered. He also threatened to have Rankin killed if he did not agree to go back into business with the Richards' company. Ultimately, after numerous threats and some physical blows, Rankin agreed. As noted earlier, these actions by Richards became the subject of a separate indictment.

The government concedes that, consistent with the requirements of 18 U.S.C. § 3500(c), the materials in question should have been turned over to the court for an in camera inspection. However, the portions of the statements withheld from the defendants did not relate to the subject matter to which the witness had testified, within the meaning of subsection (b) of § 3500. All of the events described in those portions took place after the date charged in the indictment and none of them were mentioned on direct examination.

In United States v. Allsenberrie, 424 F.2d 1209, 1215 (7th Cir. 1970) and United States v. Trigg, 392 F.2d 860, 865 (7th Cir. 1968) this Court confirmed the principle that defendants are not entitled to statements which do not relate to the events and activities testified to by the witness on direct examination.^{5/}

Nor is there a right to statements relating to mere collateral and incidental aspects of a witness' testimony.^{6/} The issue raised by the defendants must be resolved by an application of these principles to the particular fact situation in this case. Here, because the events described in the withheld portions of the state-

^{5/} See also United States v. Mayersohn, 413 F.2d 641, 643 (2d Cir. 1969); United States v. Butenko, 384 F.2d 554, 568 (3d Cir. 1967); and United States v. Cardillo, 316 F.2d 606, 616 (2d Cir. 1963).

^{6/} Matthews v. United States, 407 F.2d 1371, 1376 (5th Cir. 1969).

ments occurred after the date on which the crime took place and because they were not concerned with the direct testimony of the witness, they cannot be said to relate to that direct testimony.

However, assuming arguendo that they do "relate" to the subject matter of Rankin's direct testimony, it is clear that the defendants were not prejudiced by the omission. The lack of prejudice is apparent both from a reading of the transcript of Rankin's cross-examination and by reference to the defendants' brief.

Annerino and Falco, armed with the additional portions of the statements, assert that the material would have been useful for impeachment purposes. They point out that Rankin, upon being asked in the grand jury room why he wanted to speak with Mr. Hessler, replied:

"A. Well, the previous day when the two men came in, they didn't ask for my side of the story. They told me what they had been told by her or whoever they had talked to."

Based upon this answer defendants argue that it was reasonable to infer that Ruth Richards' view may have differed from Rankin's.

(D.Br. 22). But this same inference was already clearly suggested when Rankin testified concerning Mrs. Richards' reaction to his termination of their business relationship: "[S]he just became enraged and began shouting obscenities at me and stormed out of the office saying she could play dirty too." Although this remark was ordered stricken by the judge, the defendants plainly were on

notice that a difference of opinion existed between Rankin and Mrs. Richards.

Thus, the argument that this small bit of information, of which the defendants already were aware, could have assisted them in establishing the lack of any agreement to defer payment, is preposterous. This is especially true in light of the strong evidence in the record tending to establish the existence of an agreement to defer payment.

However, defendants also ask, "[C]ould the examiner have shown that Rankin suspected Sue's version differed from his because he knew that his own was ill founded?" (D.Br. 22). Any expectation of eliciting such a statement from Rankin would, itself, be ill-founded. In fact, defense counsel tried this approach when he suggested that Rankin believed, as he was being punched by Annerino, that he "had it coming." (Tr. 144). Rankin quickly responded, "Oh, no, sir."

Defense counsel were given very broad latitude in cross-examining Rankin. The record is replete with efforts to paint the witness as a less than noble figure, and any information contained in the withheld statements would not have provided counsel with any further assistance in this regard.

In United States v. Sharpe, 452 F.2d 1117 (1st Cir. 1971), the defendant claimed that he had been prejudiced by the government's failure to turn over a portion of a witness' statement which un-

questionably related to his direct testimony. The court, in assessing this claim, stated that it could find no prejudice to the defendant. As has been demonstrated, the same can be said of the instant case. While the government is mindful of the singular importance to a defendant of the right to cross-examine, and of the role that \$ 3500 is intended to play in securing that right, the defendants in this case were not denied that right. The materials withheld from them did not relate to the direct testimony of the witness, and, in any event, their value for impeachment purposes was so minimal that the withholding of them clearly did not prejudice the defendants.

III

THE TRIAL COURT PROPERLY INSTRUCTED THE JURY ON THE ISSUES OF THE CASE AND DID NOT ERR IN REFUSING DEFENDANTS' REQUESTED INSTRUCTIONS

Annerino and Falco contend that the trial court erred in refusing to give their tendered instructions containing their "theory of defense." However, an examination of the refused instructions, together with those actually given, reveals that their theory, insofar as it was legally correct, was contained in the charge given to the jury.

Basically, the defendants' theory of defense was that the government's evidence had failed to establish the existence of an extension of credit. They sought to argue that: (1) the government failed to show the existence of a debt or claim; and (2) even if the proof did show the existence of such a debt or claim, there was no showing of an agreement to defer the payment of that debt or claim.

In pursuit of their efforts to show an absence of any claim or debt, they elicited from Rankin an affirmative answer to the question, "So, you were a kind of trustee for them, weren't you, if that is what we mean by trustee?" (Tr. 136). Rankin is neither a lawyer nor an expert on trusts. No other evidence was offered tending to show that the business relationship between Rankin and the Richards resulted in the creation of a trust; nor was any attempt made to offer expert testimony on the subject of trusts.

The defendants, however, offered the following instruction:

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It is the defendants' theory of defense that the money they collected from Robert Rankin was not an extension of credit but was funds that Rankin was holding as trustee for Sue Richards and Thunderbird Express. (O.R. 41).

The instruction was refused.

Given the extremely limited evidentiary basis for any instruction on trusts and the argumentative form in which it was tendered, the trial judge properly refused to give the instruction.^{7/} Under the circumstances it could only have confused the jurors.

Moreover, the suggested instruction was not well founded, legally. Even if the defendants had succeeded in showing the existence of a trust, the jury would not have been justified in finding a failure in the government's proof on the element of extension of credit. An extension of credit involves any debt or claim, however arising. Thus, Sue Richards would have had a claim against Illinois Express even if Illinois Express were holding money as a trustee.^{8/} The instruction was incorrect and therefore was properly refused.

Defendants also contend that the court erred in refusing to give the following instruction:

It is a further part of the defendants' theory of defense that they did not act wilfully because they understood that they were collecting from Robert Rankin money that belonged to Sue Richards and Thunderbird Express and not money that was an extension of credit. (O.R. 41).

^{7/} See, e.g., United States v. Pritchard, 458 F.2d 1036, 1040 (7th Cir.), cert. denied, 407 U.S. 911 (1972) (theory of defense instruction which was argumentative in form and without adequate evidentiary foundation properly was refused).

^{8/} See, e.g., United States v. Fellabaum, 408 F.2d 220, 228 (7th Cir. 1969).

This instruction clearly is argumentative, legally incorrect and misleading. It tends to convey the thought that the actions of the defendants were not wilful unless done with knowledge of the elements of the offense. Whether the defendants knew they were collecting an extension of credit from Rankin is unrelated to the wilfulness of their acts and an instruction suggesting otherwise was properly refused.^{9/}

Finally, defendants contend that the court erred in refusing to give two additional instructions. (O.R. 44, D-11, D-12). Both instructions, however, deal in argumentative terms with the question of whether there was an agreement to defer payment. This area was adequately covered by the court's charge to the jury. In substance the instructions given contained the same points as those suggested by the defendants.^{10/} Where, as in the

^{9/} See, e.g., United States v. American Radiator and Standard Sanitary Corp., 433 F.2d 174, 199 (3d Cir. 1970), cert. denied, 401 U.S. 948 (1971) (instructions which were "prolix, imprecise, and often intertwined evidentiary assumptions with law in a highly partisan manner" were properly refused).

^{10/} Thus, the court instructed the jury that:

In order to find either of the defendants guilty of the crime charged in the indictment the government must prove, beyond a reasonable doubt, that there existed an agreement either tacit or express, whereby Robert Rankin should be permitted to defer payment of money due Sue Richards.

In determining whether or not Sue Richards agreed either expressly or by implication, to defer payment due her, you may take into consideration the former practices of the parties. (O.R. 41, court's instruction 12B).

instant case, the jury is fully and fairly instructed upon the case as a whole, it is unnecessary to give any specific instructions in the precise form requested by the defendant, since "there is no error in refusing to give an instruction which duplicates one that is substantially the same."^{11/}

The cases cited by defendants do not support their argument. In United States v. Phillips, 217 F.2d 435 (7th Cir. 1954), the defendant claimed that he had, in good faith, relied on the advice of his attorney in following a certain accounting practice. This Court held that the jury should have been instructed that if they believe such evidence, they should find the defendant not guilty of tax evasion.

In United States v. Grimes, 413 F.2d 1376 (7th Cir. 1969), a defendant, charged with assaulting an employee of a federal penitentiary, claimed that he had done so in defense of a fellow prisoner who he believed was being subjected to an unprovoked physical assault by prison guards. This Court held that it was error to refuse to instruct the jury of this possible defense.

The defendant in United States v. Vale, 435 F.2d 774 (7th Cir. 1970), claimed that he had been framed by others who had been charged as co-conspirators, and there was evidence in the record

^{11/} United States v. Fellabaum, 408 F.2d 220, 227 (7th Cir. 1969). See also W. LaBuy, Jury Instructions in Federal Criminal Cases § 1.01 (1965).

to lend credence to that claim. The Court held that an instruction setting out defendant's theory should not have been refused.

In each of these three cases the trial court refused to place before the jury the theory of defense. In Phillips, the jury was not told of the possibility of a "good faith" defense raised by the testimony that defendant had followed his lawyer's advice. In Grimes, the jury was not informed that the defendant's conduct might not be criminal if he had acted to protect a person who was being unlawfully beaten. Finally, in Vale, the jury was not informed, through the instructions, of the defendant's theory that he had been framed.

As stated earlier, the primary contention of defendants at trial was that the government's proof failed to show the existence of an extension of credit. This was their "theory," and the trial court clearly instructed the jury on what the facts had to show in order to justify a determination that an extension of credit did exist. Therefore, the jury in the instant case, unlike those in the cases cited by defendants, was fully aware of the applicable law which had a bearing on the factual determination they were required to make. The defendants' proposed instructions on the other hand, were over broad, imprecise and argumentative statements which should have been and were presented by defense counsel not by the trial judge. ^{12/}

^{12/} Cf. United States v. Napue, 401 F.2d 107, 112 (7th Cir. 1968), cert. denied, 393 U.S. 1024 (1969) (harmless error to omit instruction on theory of defense where theory was thoroughly argued in the summary to the jury and jury could not have been misled as to theory).

CONCLUSION

For the foregoing reasons, the judgments of conviction should be affirmed.

Respectfully submitted,

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Filed 1/27/75

(Strike Three)
74CR 446

In the
United States Court of Appeals
For the Seventh Circuit

No. 74-1970

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

vs.

SAMUEL ANNERINO and JAMES FALCO, a/k/a "HAWK",

Defendants-Appellants.

Appeal from the United States District Court for the Northern
District of Illinois, Eastern Division.

Honorable William J. Lynch, Judge Presiding.

BRIEF FOR APPELLANTS ANNERINO AND FALCO

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Appeal from

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BRIEF FOR

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Both de
defendant

In the
United States Court of Appeals
For the Seventh Circuit

No. 74-1970

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

vs.

SAMUEL ANNERINO and JAMES FALCO, a/k/a "HAWK",

Defendants-Appellants.

Appeal from the United States District Court for the Northern
District of Illinois, Eastern Division.

Honorable William J. Lynch, Judge Presiding.

BRIEF FOR APPELLANTS ANNERINO AND FALCO

STATEMENT OF THE CASE

In June, 1974, both defendants were indicted for a violation of Title 18, Section 894. A copy of the single count indictment is included as Appendix A.

Both defendants were convicted, after a jury trial. The defendant Annerino was sentenced to a five year sentence,

to run consecutively to a two year sentence he is presently serving. The defendant Falco was sentenced to three years. Falco's bond was revoked. Consequently, both defendants are presently incarcerated.

On the day of sentencing, but prior thereto, the defendants moved the court for a judgment of acquittal, *non obstante veredicto*, based on the discovery by defense counsel of materials that they thought fell within Title 18, Section 3500, "the Jencks Act".

The trial judge denied the motion and refused to look at the materials. See transcript of proceedings, November 20, 1974.

ISSUES PRESENTED FOR REVIEW

1. Whether the Government failed to prove an "extension of credit", a prerequisite to criminal liability under Title 18, Section 894.
2. Whether the conviction should be reversed because of the Government's knowing and blatant violation of Title 18, Section 3500, "the Jencks Act".
3. Whether the trial judge erred by not giving any of the instructions offered on the defendants' theory of the case.

STATEMENT OF FACTS

On January 31, 1974, the defendants appeared at complainant Robert Rankin's place of business, Illinois Express, presented him with Thunderbird Trucking bills, and demanded immediate payment. Thunderbird Trucking was operated first by Vernon Richards then by his wife, Sue. Rankin acknowledged he owed the Thunderbird people some money. The ensuing events consisted of threats of

violence by the defendants if payment was not made, accompanied by a beating. Rankin then agreed to meet the defendants at his bank, met them there a short time later, and paid them.

The foregoing facts are undisputed, as they were in the trial court. The matter in dispute is whether or not there was any agreement between Rankin and the Richards' whereby payment could be deferred, such that an "extension of credit" took place—a statutory prerequisite to the statutory proscription against the violent collection means employed by the defendants.

Only Robert Rankin testified to the relationship between himself and the Richards'. Hence, only his testimony is digested here.

Rankin identified himself as president and part owner of Illinois Express, Vernon Richards as owner of Thunderbird Trucking, both trucking companies. Richards owned trucks, but no state or federal certificates which would enable him to haul freight outside of the Chicago area. Rankin owned no trucks, but, as Illinois Express, owned the certificates which were required to haul freight outside of Chicago (Tr. 94, 106, 18-20) and to bill directly for cartage that Richards could not so bill (Tr. 105).

It is the practice for truckers who lack these necessary ICC certificates to employ the ICC permits of other carriers (Tr. 94). Rankin's deal with Richards was that Richards would use Rankin's certification on the Richards' trucks, for which Rankin would be compensated (Tr. 95).

On direct examination, Rankin said that he started doing business with Richards in 1970, and that their arrangement entailed an oral agreement by which Illinois Express, i.e., Rankin, leased the Richards' trucks so that Richards

hauled under Rankin's certification. In return, Rankin got 10 percent of Richards' revenue, the balance, 90 percent going to Richards (Tr. 21). Richards was not to get his money until the customers, billed by Rankin, paid Illinois Express (Tr. 22). Periodically, Richards would go to Rankin to get his money and drop off new bills for cartage performed during the interim (Tr. 23).

*incorrect
see 22
23*

On cross examination Rankin testified that prior to mid-October, 1973, Richards had done his billing on the Northern Petrochemical account through Volume Freight, a freight consolidator (Tr. 104). When Richards billed through Volume Freight, Rankin got nothing and Richards got 100% of the revenue. That situation was terminated when Rankin took over the billing in mid-October, 1973 (Tr. 124-125). Vernon Richards had gone to serve a prison sentence in late September of 1973, leaving his wife, Sue, to run the trucking business (Tr. 31-32).

Before he left, Richards told Rankin he was leaving his wife in charge of his business. Rankin knew that she looked to the business to support herself and her three children (Tr. 110). Richards asked Rankin to help his wife because she lacked knowledge and experience, and Rankin agreed to help her run the business ((Tr. 113-114). When Rankin suggested the new billing procedures, Sue Richards did not jump at the chance (Tr. 128). The only difference in the amount of work Rankin did for the 10 percent was to send out the bills, take in the money, do the accounting, and to remit back to Sue Richards (Tr. 126).

Rankin also testified on cross examination that his deal with Richards was that Richards would use Rankin's certification and that Rankin would be compensated therefore by receiving Richards' overflow business as well as the

10 percent for the use of the certificate (Tr. 96). When Illinois Express (Rankin) hauled freight on its own account, the freight was carried on trucks leased from Barr Cartage, by whom Rankin was employed (Tr. 80-81, 97-98). This was necessary because Illinois Express' assets consisted of a chair, a desk, a telephone, and the Interstate and Illinois Commerce Commission certificates (Tr. 97). Thus, Illinois Express, with no trucks, was a business that consisted fundamentally of a piece of paper, the certification (Tr. 134).

Government Group Exhibit #2 relates to the Northern Petrochemical account (Tr. 77-78). This was an account which had been acquired by Vernon Richards in 1971 and it remained Richards' account until January, 1974 after which it became Rankin's account (Tr. 91-92). Richards had no certificate (Tr. 94). Richards hauled for Northern, either (according to Rankin) giving Rankin 10 percent of the revenue plus the overflow business (Tr. 96) or the overflow business alone without the 10 percent (Tr. 125). The Northern Petrochemical business increased greatly in 1973 (Tr. 96), more than Richards with his two trucks (Tr. 95) could handle (Tr. 97).

Rankin described the procedures by which he conveyed money to Richards as procedures in which the money, at the time that it came to him "belonged" 90 percent to Richards and 10 percent to him. As to the business of September and October 1973, money "belonging" to Sue Richards came to him; he deducted 10 percent, and turned the balance over to her (Tr. 115).

Money likewise came in on November, December (1973) and January, 1974 business, part of it belonging to Sue Richards and part of it to Rankin, on account of a series of bills submitted to him by Sue Richards commencing

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both of
them*

November 26, 1973 and ending January 11, 1974. The total was about \$5,200 (Tr. 116-119). Ten percent of that money "belonged" to Rankin; 90 percent of it to Sue Richards (Tr. 120).

Before Richards went to prison he would speak to Rankin daily, and upon being told that money came in, Richards would pick it up in a day or two. Rankin did not withhold it from him because it was Richards' money and not Rankin's (Tr. 135). Rankin understood that a man who holds money that belongs to another to whom his only obligation is to turn it over on demand is a trustee. He understood that he was the trustee of the funds that came in for the Richards (Tr. 136).

On January 14, 1974, Rankin visited Illinois Petrochemical and advised them that the Richards (Thunderbird) could no longer haul under his certificate, but that he would continue to haul for them (Tr. 43). The account became his account then, and not the Richards' (Tr. 92).

Later that day, he advised Sue Richards of his withdrawal of his certificate, effective immediately (Tr. 45) at a time when she actually had freight aboard her trucks (Tr. 157). And in a second conversation with Sue Richards on January 14, 1974, at which time Sue Richards demanded payment of outstanding bills, Rankin told her that he could not pay her because the customers had not paid Illinois Express, and went on to suggest that the money be put in escrow against contingent liabilities that "might" arise. (Tr. 52).

Rankin testified that there were in fact claims against the money, viz., a claim for \$47, a smaller claim for \$25 (Tr. 140) and a possible contingent claim of \$2,000 or more, which claim had not been asserted by the time of Rankin's testimony (Tr. 142).

"Q. So, you were holding \$5,000 belonging to somebody else . . . against an actual claim for \$47 plus another actual claim for \$25 which adds up, I suppose, to about \$72, doesn't it?

"A. I believe so.

"Q. Plus a claim that has not materialized to this day, the size of which you have no means of gauging, right?

"A. Right." (Tr. 142-143)

Rankin's trucking experience made him aware of the fact that there are expenses incident to conduct of the business, e.g., licensing, insurance, fuel, garaging, repairs, maintenance, paying the drivers and forty other expenses a truck owner must pay to keep his trucks rolling. Those costs came from Sue Richards (Tr. 107-108). As far as Rankin knew, Sue Richards' only income was from the trucks (Tr. 110). Rankin stated that so far as he knew, the 90 per cent of the \$5,200 which belonged to Sue Richards was money which she needed to pay the expenses incident to operating her trucks (Tr. 120). *insert 120 further*

The defendants' visit followed Rankin's refusal to pay Sue Richards. She had also filed a claim against Rankin with the Commerce Commission.

Defendant Falco left instructions with Rankin as to how he might be contacted. Rankin arranged to meet Falco a week or so later and told Falco that if Sue Richards would forget about her trucking business, he would give her 7 or 8 percent of his billing on the Northern Petrochemical account (Tr. 148-150). *Falco*
se Test

ARGUMENT

I.

THE GOVERNMENT FAILED TO PROVE AN "EXTENSION OF CREDIT", A PREREQUISITE TO CRIMINAL LIABILITY UNDER TITLE 18, SECTION 894.

The complaining witness, Robert Rankin, and Vernon Richards had separate trucking businesses. Rankin had ^{income} no trucks. He had certificates from the Interstate and Illinois Commerce Commissions, however, which authorized him to haul outside of Chicago. Richards lacked the certificates, without which he could not haul freight outside of Chicago. But he had two trucks.

WRON 2 Richards obtained the business of Northern Petrochemical, located outside of Chicago, and Rankin agreed that Richards could service Northern Petrochemical under Rankin's permits. Since an uncertified carrier cannot bill on his own account, Richards billed through permit holders, at first billing through Volume Freight, a freight consolidator. In doing so, Volume Freight gave Richards 100 percent of the revenue for which he billed (Tr. 124-125). Rankin's reward for the use of his certificates was the overflow work from Northern Petrochemical, which he hauled in rented trucks.

In September of 1973, Richards was imprisoned. Rankin agreed to help Richards' wife run Richards' trucking business upon which she and their three children were dependent. Sue Richards was an inexperienced businesswoman. In less than a month, Rankin insisted that the billing be done through him, for which he took 10 percent for his additional efforts—sending out the bills and remitting Sue Richards' money to her.

Commencing with her late November 1973 billings and continuing through those of January 11, 1974, Rankin

some points

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withheld payment of Sue Richards' billings although the previous practice of the parties provided for payment to the Richards on demand following payment by Northern Petrochemical to Rankin, the permit holder, in compensation for the Richards' work.

On January 14, 1974, Rankin withdrew from the Richards' trucks his permits. He advised Northern Petrochemical of that fact, and took over the account for himself. When Sue Richards demanded the money due her, he claimed he had not been paid, and suggested that the money, about \$5,200, be put in escrow to protect him against claims which might arise as a result of the use of his permit. The claims were two small claims amounting to \$72, and a "contingent" claim that might run to \$2,000 or more, but which had never been presented.

On January 31, 1974, the defendants appeared at Rankin's office and presented him with a number of Thunderbird Trucking bills. They threatened him and beat him.

Defendants were convicted for violation of Title 18, United States Code, Section 894. That section reads, in pertinent part:

"(a) Whoever knowingly participates in any way, or conspires to do so, in the use of any extortionate means

- (1) to collect or attempt to collect any extension of credit, or
- (2) to punish any person for the nonrepayment thereof, shall be fined not more than \$10,000 or imprisoned not more than 20 years, or both."

It is undisputed that violent means were used by defendants. It is also undisputed that, as a result of these means, the victim, Rankin, gave a check to defendants. But the issue here is, "was there an extension of credit?"

If the money collected was not money which the complainant held pursuant to an agreement, express or tacit, that repayment might be deferred, the defendants could not have violated the section.

Section 891(1) defines the subject matter, extension of credit, thusly:

"to extend credit means . . . to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or will be deferred."

It is simply not the case that the statute upon which the indictment was based declares criminal every violent extraction of money from another. The statute's proscription runs only to those situations where there has been an extension of credit pursuant to an actual agreement (whether tacit or express, but nonetheless, an agreement) that repayment may or will be deferred.

The government urged, successfully, that there was a tacit agreement to defer payment.

"It was an agreement that when Northern Petrochemical paid Rankin, Rankin would hold that money and when Richards would come in, he would pay them the money they had earned. And it was an agreement between the two that that is the way it was done."
(Tr. 209)

What the prosecutor seemed to be saying was that because Rankin and Richards agreed that Rankin should maintain custody of the money until Richards arrived (so that Rankin could hand it over), the two had agreed to defer repayment.

But this state of affairs occurs in a thousand daily transactions. The bus driver pulls away from the curb before a passenger sorts out his coins preparatory to depositing his fare. Has the driver "extended credit" so

that his threat to eject the passenger unless he pays promptly has become a federal crime? No, he has merely provided time within which the passenger could perform those small acts incident to the physical tender of coins.

The saleswoman at Marshall Fields has custody of funds which she is not expected to turn over until the end of the day. Has Fields extended credit to her? Obviously not. She has funds belonging to another in her possession. She is custodian of those funds. She does not "owe" Fields. Fields is not the girl's "creditor". She can hardly claim at noon, if she is on her way out the door with those funds, that Fields has, after all, extended credit to her until 5:00, so that their forcible extraction of the money is extortionate.

The examples are an absurdity. But so is the government's argument.

Lest it be thought that we exaggerate, or that the previous explanation of the government's theory was merely a momentary governmental lapse, unrepresentative of their actual position, we invite the Court to observe the government's earnest proposal two pages later.

"When Northern Petrochemical paid Rankin, he obviously didn't immediately turn around and give the money to Sue Richards or Thunderbird. He'd wait a day, wait three days, a week maybe. And Thunderbird had been agreeable to that in the past, was agreeable to it at that time. And that is deferred payment, whether a day, or two days or a week, it was deferred. He didn't pay right away." (the same prosecutor at Tr. 211).

Now, of course, what Rankin was waiting for, based on the previous practices of the parties, was for someone to show up to whom he could hand over the money on demand. For Rankin protested that he had previously treated these obligations as demand obligations, wherein

he was required to pay on request, because, as Rankin put it, it was not Rankin's money, but Richards' money (Tr. 135). He quite literally stated that he regarded himself the *trustee* of those funds. That is to say, Rankin agreed, he held them as a man who held them for another, subject to the single obligation of turning them over on demand (Tr. 136). In short, he asserted no right to the funds whatever, save the right to convey them to their owner. Rankin himself said so. Not tacitly, but in just those words:

"Q. So, you were kind of a trustee for them [the Richards] . . . weren't you?

A. Right." (Tr. 136)

Nor did Rankin suggest that he ever had an understanding or agreement whereby he might properly defer payment to the Richards once he received their funds. His only testimony concerning deferred payment was to the effect that payment by him to the Richards' was deferred until Richards' customer had placed the money in his hands. Understandably—because Northern Petrochemical was Richards' customer, not Rankin's.

All the essential elements of a trust were present. The *res* was the money held by Rankin. *Williams v. Rock River Savings & Loan Ass'n*, 51 Ill.App.2d 5, 200 N.E.2d 848 (1964). There was a legal estate in one person—Rankin; and another—Richards—had rights in that *res* distinct from that of legal ownership. *Merchants National Bank of Aurora v. Frazier*, 329 Ill.App. 191, 67 N.E.2d 611 (1946). This trust may have arisen by express oral agreement of the parties, *Alexander v. Mermel*, 27 Ill.App.2d 281, 169 N.E.2d 569 (1960), or as a resulting trust by operation of law, *Fender v. Yagemann*, 29 Ill.2d 205, 193 N.E.2d 794 (1963), *First National Bank & Trust Co. of Rockford v. Illinois National Bank & Trust Co. of Rockford*, 19 Ill.2d

385, 167 N.E.2d 223 (1960). But in either event, the agreement was that Rankin held the *res*, the money, for the benefit of Richards.

A trust is not a debt. This is clear in both federal and Illinois cases. In *United States v. Orsinger*, 428 F.2d 1105 (D.C. Cir. 1970) defendant was convicted of larceny after trust, a crime in the District of Columbia, 22 D.C.Code, Sec. 2203. His defense, which was rejected on the merits by the Court of Appeals, was that he stood in the position of debtor *vis-a-vis* the funds he was accused of converting, rather than that of trustee. Thus, there is a clear distinction between a trustee-beneficiary relationship and that of debtor-creditor. This distinction was clearly drawn in two Illinois cases: *Pure Oil Co. v. Byrnes*, 388 Ill. 26, 40, 57 N.E.2d 356 (1944) and *Kilgore v. State Bank of Colusa*, 372 Ill. 578, 584, 25 N.E.2d 39 (1940). Both these cases drew the distinction on the basis of the beneficiary's beneficial interest in property, a fiduciary relationship, and enforceability in chancery. All these factors are present in the instant case. Thus, Robert Rankin was not a debtor to either of the Richards' while he held funds in trust for them. And, logically, if there is no debtor, there is no debt.

If there ever was a debt or claim to arise in the instant case, it arose when Sue Richards demanded that Rankin turn over the money he was holding for her in trust and Rankin refused to do so (Tr. 52-53).

However, the mere existence of a debt or claim does not equal an "extension of credit". There must be an agreement whereby repayment of that debt or claim is deferred in order that credit be said to be extended. 18 U.S.C. 891(1).

In the instant case there was no agreement to defer the repayment of that debt. On the contrary, upon Rankin's

refusal to turn the money he was holding over to Sue Richards, she immediately began to send complaining letters to the Interstate Commerce Commission concerning Rankin's acts (Tr. 138). These are certainly not the acts of one who has just agreed to defer a debt.

Given Sue Richards' circumstances at the time, it is hardly remarkable that the record fails to disclose that she entered into an agreement to defer payment to her. By Rankin's account she was a jail widow with three mouths to feed. By Rankin's account she was dependent on the trucking business. By Rankin's account she needed the money which he withheld to pay the expenses incident to keeping the business alive. By Rankin's account she demanded what he withheld. By Rankin's account he had not previously withheld sums.

Given Rankin's revealed capacity for noble deeds it is unthinkable that his withholding was anything more than another shabby device by which he sought to take Sue Richards' customer away from her. Indeed, until he required that she bill Northern Petrochemical through him, Rankin was a stranger to her financial dealings with Northern Petrochemical. If credit was extended, it was Rankin's act in extending credit to himself, a condition which the record fairly shouts was never acquiesced in by Sue Richards. It is unthinkable that a man should be able to extend credit to *himself* merely by refusing to pay. Yet to find any extension of credit here, it is precisely that further absurdity that must be indulged.

In rejecting our similar arguments, the trial judge relied entirely on this Court's holding in *United States v. Annerino*, 495 F.2d 1159 (7th Cir. 1974) (Tr. 206). The facts of that case, however, are clearly distinguishable from those of the instant case.

In *Annerino*, a partnership was dissolved with one partner owing the other approximately \$3,500. Two pay-

ments were made on the debt after the breakup of the partnership and before the incidents which were the basis of the convictions. [The acceptance of those payments, which totaled \$1,250, and the fact that they were made at all are certainly evidence of, at least, a tacit agreement to defer the debt.] *same is true in our case of prev. paym'ts. accepted*

The creditor partner subsequently assigned the debt to a third party as collateral for a loan. The assignee sent two men to collect the debt from the debtor partner. Extortionate means were used in the attempt at collection. 495 F.2d at 1160-1161.

Thus, in *Annerino*, there was a debt which had arisen no later than the breakup of the partnership. The repayment of this debt had been deferred by at least a tacit agreement of the partners. Therefore, the statutory definition of "extension of credit" was met by the transaction and the subsequent use of extortionate means in the attempt to collect the debt was a clear violation of 18 U.S.C. 894.

In the instant case there was no evidence of any agreement to defer any debt or claim. Thus, whatever defendants may have collected from Robert Rankin was surely not an "extension of credit" as defined in 18 U.S.C. 891(1). Therefore, whatever defendants may have accomplished, they did not violate 18 U.S.C. 894.

II.

THE CONVICTION SHOULD BE REVERSED BECAUSE OF THE GOVERNMENT'S KNOWING AND BLATANT VIOLATION OF TITLE 18, SECTION 3500, THE JENCKS ACT.

The government's chief witness Robert Rankin gave several statements to the government regarding the instant case and appeared before the grand jury as well. After the trial, counsel for the defendants found out that

eight pages of statements to the F.B.I. and eighteen pages of Rankin's grand jury testimony had been withheld from them, as well as from the court, by the prosecutors.

The grand jury portions—entire as well as excised—and the statements that fall within Section 3500—entire as well as excised—were made part of the record on appeal and can be found in a manila envelope as part of the record on appeal. Also in the envelope is the affidavit of Gerald M. Werksman setting forth the fact that a request for statements falling within Section 3500 was made prior to Rankin's testifying and that the government led counsel to believe that it had complied by supplying counsel with some (but not all) of the material.

The portions of the statements and grand jury testimony not given to counsel were never tendered to the court for its inspection *in camera*, nor would the court take the time to inspect the portions improperly withheld by the prosecutors when it was brought to its attention after the trial (Tr. 3, November 20, 1974).

Since the prosecutors violated Section 3500 and since the trial court, even after citation of cases and hearing argument, would not look at the materials, defendants must seek justice in this court.

In the manila envelope are four statements of Robert Rankin marked in red as 3500 A, 3500 B, 3500 C, and 3500 D. These consist of seventeen pages. Also in the envelope and marked in red is 3500 E, twenty pages of the grand jury testimony of Robert Rankin. Those materials—marked in red—represent what the government furnished to counsel in supposed compliance with Section 3500.

Also in the envelope and marked in lead pencil are the entire statements given by Rankin—these are marked "Entire Statement. Excised Version is '3500 A'", "Entire

Statement. Excised Version is '3500 B' ', etc. These consist of twenty-five pages. Also in the manila envelope and marked in lead pencil is "Entire Grand Jury Transcript. Excised Version is '3500 E' ", which represents thirty-eight pages of Rankin's grand jury testimony.

Thus, in violation of Section 3500, the prosecutors withheld initially from the trial judge and subsequently from defense counsel eight pages of F.B.I. statements and eighteen pages of grand jury testimony of its crucial witness.

In *Krilich v. United States*, 502 F.2d 680, 686 (7th Cir. 1974), the court stated:

"Where the government fails to comply with the requirements of the Jencks Act, a conviction should be reversed unless it is *perfectly clear* that the defense was not prejudiced by the omission." (Emphasis in original.)

The conviction in *Krilich* was not reversed because the case upon which *Krilich* was relying—*United States v. Cleveland*, 477 F.2d 310 (7th Cir. 1973)—was decided prior to the post-conviction petition filed by *Krilich* and the court, applying criteria regarding retroactivity, did not feel that defendant was entitled to have the new rule applied retroactively.

In *Cleveland*, however, the conviction was reversed because no *in camera* inspection was made by the trial judge and the I.R.S. agent's statement was held to fall within the Jencks Act.

Two cases cited by the court in *Krilich* have special relevance in the instant case because they help to rebut the only argument that the government can offer this court at this time—"that it is *perfectly clear* that the defense was not prejudiced by the omission."

In *United States v. Missler*, 414 F.2d 1293, 1303-4 (4th Cir. 1969), the court stated:

"The requirements of the Jencks Act are intended to provide defendants in federal prosecutions with an opportunity for thorough cross-examination of government witnesses, making the constitutionally guaranteed right of confrontation more meaningful. Violations of the statute are necessarily attended by the danger that this precious right will be impaired. For this reason, and also because it is ordinarily difficult upon review of a cold record to ascertain the value to the defense of a statement withheld, violation of the Act is excused only in extraordinary circumstances. See *Killiam v. United States*, 368 U.S. 231, S.Ct. 302, 7 L.Ed.2d 256 (1961); *Rosenbery v. United States*, 360 U.S. 367, 79 S.Ct. 1231, 3 L.Ed.2d 1403 (1959). Unless it is perfectly clear that the defense was not prejudiced by the omission, reversal is indicated."

The affirmance in *Missler* relied upon the following, all of which are not true of the instant case—(a) the witness whose statement was withheld was a rebuttal witness who testified very briefly; (b) the witness's testimony was corroborative; (c) the statements withheld differed from the statements furnished in only minor details. Finally, the court opined:

"It would be sheer speculation to suggest that these differences, if known to defense counsel, would have resulted in material improvement upon the shattering cross-examination he was able to achieve without knowledge or use of the statements in question." (p. 1304)

In the instant case the statements withheld from counsel related to subsequent meetings and conferences between the alleged victim and the defendants to discuss the very matters that constituted the gravamen of the indictment. The witness had breakfast with one of the defendants and

agreed, in conversations with a third person, not to stop the check but to wait for repayment of any overpayment.

Further, at trial, counsel for defendant asked whether a subsequent meeting had taken place and whether the witness had so told the F.B.I.:

By Mr. Werksman:

Q. Now, you have had several conversations with the FBI agents, have you not?

A. Yes.

Q. Have you been interviewed by them?

A. Yes.

Q. You have given statements to them, haven't you?

A. Yes.

Q. Did you ever tell them about the breakfast that you had with the Hawk a week or ten days after this alleged event?

A. Yes.

Q. You did. When was the first time you talked to anybody from the FBI, do you recall?

A. Yes, the very first—I don't recall the exact date.

Q. All right. It was after January 31 of course, wasn't it?

A. Right.

Q. And it was after you had breakfast with the Hawk, wasn't it?

A. Right.

Mr. Werksman: I have nothing at this time. (Tr. 168-169)

When the witness answered in the affirmative counsel had to drop that line of questioning because he did not know what to expect. Had he tried to impeach the witness subsequently in the trial by calling the F.B.I. agent and asking where in the reports this meeting had been mentioned, the reports would have come to light, *possibly*. We say possibly because the prosecutors knew at this point that the reports existed and no objection had been made to opening this line of questioning.

*beecuz there
was no
mention
of it
on-direct*

wrong

It is easy to see, then, that this single point diminished the effectiveness of the cross-examination because counsel could not question the witness regarding events subsequent to the payment of the money about which he had testified. And the jury may have concluded that defense counsel did not wish to go into these matters. The very opposite is, of course, true.

In *United States v. Aaron*, 457 F.2d 865 (2nd Cir. 1972), also cited by the court in *Krulich*, the conviction was reversed and remanded for a new trial because of the "inadvertent" failure to comply with the Jencks Act. Judge Waterman stated, at page 869:

"We need not attempt to weigh with mathematical precision whether the withholding from the defense of a particular pre-trial statement made by a government witness violated the defendant's right to the full information the Jencks Act grants him. We agree with Judge Sobeloff's approach in the *Missler* case, 414 F. 2d *supra* at 1304, where he pointed out that 'unless it is perfectly clear that the defense was not prejudiced by the omission, reversal is indicated.' Moreover, it is of little significance to the defense in this case that the Government's failure to furnish was inadvertent. The prosecutor before turning the witness over to the cross-examiner knew of the existence of the second report and had an opportunity to relay that information to Aaron's counsel. This he did not do. We are convinced from a reading of the record that it is not perfectly clear that the defense was not prejudiced by the Government's failure."

In referring to the area covered by the statements not made available to counsel in *Aaron* the court analyzed how the defense was hampered in its trial tactics and cross-examination by the omissions and stated at page 869:

PT. out diff. in case

"In light of these factors, Aaron's attorney was well advised to steer clear of the area and instead to move for the mistrial denied him."

In the instant case defense counsel was well-advised to stay away from the subsequent meetings because he was told that the witness had informed the F.B.I. of these meetings and yet, without the Jencks' material, he could not know what the witness had told the F.B.I.

explain

In his concurring opinion in *United States v. Matos*, 444 F.2d 1071, 1074 (7th Cir. 1971), Judge Pell spoke for a level of review that is necessary if defendants are to receive fair trials and the government is not to reap the rewards of disobeying procedural rules that are supposed to insure constitutional rights:

"We at the appeal level should not speculate as to what a particular jury, or juror, might have done under other circumstances. Neither on the other hand, however, should we speculate that some trial procedure with a highly prejudicial potential might not have realized its potential. One form of speculation is as undesirable as the other."

with

The material which might have been of greatest use to the defense is contained in that portion of the Grand Jury testimony of the witness Rankin which the government failed to provide.

A few days after Rankin paid the defendants, he contacted Mr. Hessler, a friend, at IMX trucking, where Falco said he could be reached. The following is contained in that portion of the Grand Jury Transcript which the government suppressed:

"Q. What was your purpose in wanting to talk to Mr. Hessler at this time?

"A. Well, the previous day when the two men came in, they didn't ask for my side of the story. They told me what they had been told by her or whoever they had talked to. And I felt that our side of the story should be told. Maybe they weren't aware of it." (Page 46, Complete Grand Jury Transcript)

Surely a competent examiner should be able to obtain some benefit from that assertion by the witness. "They told me what they had been told by her ..." is provocative, suggesting, when taken with the rest of the assertion, that Rankin recognized the source as Sue Richards, and conceded that her view of the matter might differ from his own. Is it unreasonable to suppose that a journeyman cross-examiner, given that opportunity, could obtain an admission that Sue Richards had ever in fact agreed expressly to deferred payment? Thence to establishing through the witness, the proposition that events between himself and Sue ruled out a tacit agreement?

That's established clearly elsewhere

The following page of the suppressed transcript (p. 47) shows that Rankin then told Hessler "... my side of the story ..." to which Hessler replies, "That is completely different than what we had heard."

Rankin's premonition that Sue Richards' version differed from his own is thus shown to have substance. Would a competent examiner be interested in the fact that even before talking to Hessler Rankin was prone to speculate along these lines? And could the examiner have shown that Rankin suspected Sue's version differed from his because he knew that his own was ill-founded? It would have been worth the try.

he had an opportunity to show his version & well founded & add. stat. mts didn't add anything

At page 49 of the suppressed transcript we find a fuller account of the meeting between Hessler, Falco and Rankin a week or so later. Here Rankin complained to the other

two that "... it appeared that everybody was concerned for the welfare of Mrs. Richards. And apparently she needed some income . . ." Could a cross-examiner let that one go by from the man who, on being asked by Vernon Richards to help his inexperienced wife, first cuts 10 per cent from her income, *before* expenses, then withholds her money, and finally steals her customer? _____

*this pt
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We would remind the Court that the prosecutors who tried the case appeared before the grand jury and both questioned Rankin. Ignorance of the content of the transcript is not an available defense.

We would urge the reversal without remand is the appropriate remedy here. The government suppressed this material, knowingly. The purpose of the suppression was certainly not to help the defendants. If the prosecution felt that its conviction hinged upon the suppression, or behaved as though it so believed, should it not be estopped now from asserting the contrary? Moreover, have these appellants not been deprived of valuable rights by the effected intent of the government? For example: right to counsel of their choice. We cannot assume that these men have the means to fight the case the second time, employing the same two attorneys, who, whether able or not, are still counsel of choice.

Or again, is the right to be confronted by witnesses diminished where the very *means* of confrontation are limited to a degree not contemplated by law? Moreover, is it really quite seemly that a defendant, however circumstanced, should twice be put through the fearsome process of standing trial for his liberty, when the second trial is occasioned by the willful misconduct of the prosecutor?

The Court will by now have observed that whatever else may be said of the government's case, proof of an agreement to defer payment was not its most compelling

feature. The suppressed Grand Jury testimony tends to weaken the case further. We urge upon the Court that here it may properly apply the rule succinctly restated in *United States v. Remington*, 191 F.2d 246, 251 (2 Cir. 1951): "Evidence of efforts to suppress testimony or evidence in any form, like the spoliation of documents, is affirmative evidence of the weakness of the prosecution's case."

Application at this level would require reversal without remand. We so move.

III.

THE TRIAL JUDGE ERRED BY NOT GIVING ANY OF THE INSTRUCTIONS OFFERED ON THE DEFENDANTS' THEORY OF THE CASE.

At the appropriate time in the trial the defendants offered several instructions which would put before the jury in concise language their theory of defense.

Instruction D-1 was given in part and denied in part. The portion stricken was as follows:

arg.
It is the defendants' theory of defense that the money they collected from Robert Rankin was not an extension of credit but was funds that Rankin was holding as a trustee for Sue Richards and Thunderbird Express.

The court did give the second sentence of Instruction D-1:

If you find that the money that the defendants collected was not an extension of credit, then you must find the defendants not guilty.

The court denied the following instructions with a notation that they were argumentative:

Instruction D-3:

It is a further part of the defendants' theory of defense that they did not act wilfully because they

among legally
get a willful
instruct

understood that they were collecting from Robert Rankin money that belonged to Sue Richards and Thunderbird Express and not money that was an extension of credit.

Instruction D-11:

I instruct you that the government must prove, beyond a reasonable doubt, that Sue Richards agreed, either expressly or by implication, that Rankin should be permitted to defer payment of money due her, which he obtained from her customer, Illinois Petrochemical for services she performed in transporting her customer's goods. If you are not convinced, beyond a reasonable doubt that Sue Richards so agreed, then you must find the defendants "Not guilty".

Instruction D-12:

convict
ours
In determining whether or not Sue Richards agreed to defer payment to her of money which she had earned for services she had already performed, you may take into consideration the former practices of the parties. If it was the previous practice of the parties for Rankin to withhold the money from time to time to meet other obligations, and there was no objection to his doing so, that would be some evidence that Sue Richards agreed to the arrangement. If, on the other hand, it was not the previous practice of the parties for Rankin to withhold money, then before you can convict these defendants, you must be convinced beyond a reasonable doubt, that Sue Richards actually agreed, either expressly or tacitly that Rankin could defer payment of the money to her.

Also denied as a "repeat" was Instruction D-2 which reads as follows:

It is charged that the defendants acted "wilfully . . . in collecting an extension of credit from Robert Rankin". An act is done "wilfully" if done voluntarily and intentionally, and with the specific intent to do something that law forbids; that is to say with bad purpose either to disobey or to disregard the law.

Federal Jury Instructions, Devitt and Blackmar,
Section 16.13

It is settled law in this Circuit that "... the defendant in a criminal case is entitled to have the jury consider any theory of defense which is supported by law and which has some foundation in the evidence, however tenuous." *United States v. Grimes*, 413 F.2d 1376, 1378 (7th Cir. 1969). This is true even though the evidence may be weak, insufficient, inconsistent or of doubtful credibility. *United States v. Phillips*, 217 F.2d 435 (7th Cir. 1954).

In *United States v. Vole*, 435 F.2d 774 (7th Cir. 1970), defendant's conviction for conspiracy was reversed because of the failure of the trial judge to give the defendant's requested instruction on his theory of defense or any comparable instruction. The court held that: theory of defense instruction is required in order to be sure that a defendant's defense is brought to the attention of the jury." 435 F.2d at 778.

In the instant case, the defense was based upon two separate and distinct theories as to why there was no "extension of credit" in the transactions involved. The first was that there was never any debt which could have been deferred. The second theory was that even if there was a debt, there was never an agreement by which the repayment of the debt was to be deferred. Under the *Vole* requirements both of these theories should have been brought to the jury's attention through the instructions.

The instructions actually given fall far short of that mark. Government Instruction No. 11 stated the essential elements of the offense without separating "extension of credit" from "extortionate means," a crucial distinction to the defendants' theories of the case. Government Instruction No. 12 is the statutory definition of "extension of credit," hardly an aid to the jury in determining the validity of defendants' theories. Court's Instruction 12B and Government's Instruction No. 13, with the exception

of the Court's paragraph on prior practice, merely restate the definition found in Instruction No. 12, plugging in the names of the parties to the transaction. These four instructions were all the guidance that the jury had relating to the defendants' theories of defense.

There is absolutely no way, based on these instructions, in which the jury could have considered the defendants' theories concerning the reasons why there was no extension of credit in the transaction. This case turned on a number of technical legal concepts—the distinctions between a debtor and a trustee and between a debt arising at a future date and an agreement to defer a present debt. To intelligently decide on the defendants' theories, it was imperative that a jury of non-lawyers, untrained in such concepts, be able to draw these distinctions. The defense offered a number of instructions with that end in mind. These instructions were refused by the trial judge and no comparable instructions were given in their stead.

As a result, the jury could not have been expected to decide on the validity of the defendants' contentions because they were not made aware of precisely what those contentions were.

CONCLUSION

Wherefore, for the foregoing reasons, the convictions of the defendants should be reversed without remand.

Respectfully submitted,

GERALD M. WERKSMAN,
Counsel for Defendant-Appellant
Samuel Annerino

FRANK OLIVER,
Counsel for Defendant-Appellant
James Falco

APPENDIX

APPENDIX A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

vs.

SAMUEL ANNERINO and JAMES FALCO, also
known as "HAWK"

No. 74 CR 446

VIO: Title 18, United States Code Section 894

The SPECIAL JANUARY 1974 GRAND JURY charges:

That on or about January 31, 1974, in the Northern District of Illinois, Eastern Division,

Samuel Annerino and

James Falco, also known as "Hawk",

defendants herein, wilfully and knowingly did participate in the use of extortionate means, as defined in Section 891(7) of Title 18, United States Code, in collecting an extension of credit from Robert Rankin, in that the defendants did use means in collecting the extension of credit which involved the use of violence, and express and implicit threats of the use of violence, and other criminal means to cause harm to the person of Robert Rankin.

In violation of Section 894, Title 18, United States Code.

A TRUE BILL:

FOREMAN

UNITED STATES ATTORNEY

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, CHICAGO (179-501) ✓

DATE: 2/28/75

FROM : SA RICHARD P. CAVANAGH

SUBJECT: SAMUEL ANNERINO, aka
ET AL;
ECT

(OO: CHICAGO)

On 2/25/75, SA RICHARD P. CAVANAGH reviewed the records of the Clerk of the United States Court of Appeals, Seventh Circuit, 27th Floor, 219 South Dearborn, Chicago, and located the following pertinent information regarding the appeal in the instant case:

11/27/74

Case Docketed
(Docket #74-1970)

1/27/75

Appellants (defendant's)
Brief Filed

2/6/75

Government filed motion for
limited remand for a determina-
tion as to whether production of
witness [] statements b6
was warranted b7c

2/12/75

Seventh Circuit entered
order granting motion of
2/6/75

2/13/75

Appellants filed response in
opposition to appellee's motion
for limited remand

2/18/75

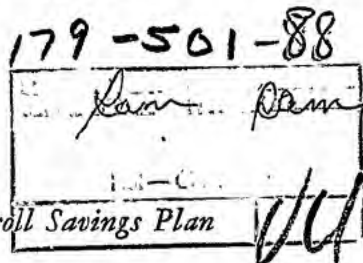
Appellee's (Government) filed
their brief

RPC/MAM
(1)



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



CG 179-501

2/25/75

Oral argument heard by the
Seventh Circuit (three judges)

Set forth hereafter is one copy each of the
briefs filed as set forth above.

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Argued February 25, 1975

MARCH 19, 1975.

Before

Hon. THOMAS E. FAIRCHILD, Chief Judge

Hon. WALTER J. CUMMINGS, Circuit Judge

Hon. ROBERT A. SPRECHER, Circuit Judge

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
No. 74-1970 vs.
SAMUEL ANNERINO and JAMES FALCO,
a/k/a "HAWK",
Defendants-Appellants.

Appeal from the United
States District Court
for the Northern
District of Illinois,
Eastern Division.

No. 74 CR 446

William J. Lynch, Judge.

O R D E R

The sole issue we reach on this appeal is whether the government's withholding of portions of a witness' prior statements requires reversal. We reverse and remand for a new trial.

Defendants were convicted of using extortionate means to collect an extension of credit from Robert Rankin. 18 U.S.C. §894.

Rankin and Mrs. Richards were involved in certain trucking business operations which resulted from time to time in an obligation on Rankin to pay money to Mrs. Richards. Defendants used threats and violence to force Mr. Rankin to make a particular payment after he refused a demand by Mrs. Richards. In substance the defense was that although Rankin's obligation to pay arose out of business operations pursuant to an agreement, and there was usually at least a minimal delay in payment

179-501-89

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FBI-CHICAGO	

No. 74-1970

there was no tacit or express agreement for the deferment of payment such that there was an extension of credit under 18 U.S.C. §891. Thus the character of the arrangements between Rankin and Mrs. Richards was the critical issue. Rankin was a witness, but Mrs. Richards was not.

After trial, defendants learned that although statements and grand jury testimony of Rankin had been turned over when he testified, portions of the full statements and testimony had neither been produced nor delivered to the court. Defendants unsuccessfully raised the matter before the district court. On appeal, this court, on motion of the government, remanded for the limited purpose of a determination whether the undisclosed portions were producible.

The district court applied the test stated in United States v. O'Brien, 444 F.2d 1082, 1086 (7th Cir. 1971), and decided the portions were producible because they described additional conversations and meetings concerning the nature of the business relationship about which Rankin testified. We agree. Contrary to the government's suggestion, it makes no difference that the conversations described took place after the date of the alleged offense.

The government's claim that defendants were not prejudiced by its failure to disclose must be established to the degree of clarity required in Krilich v. United States, 502 F.2d 680 686 (7th Cir. 1974):

"Where the government fails to comply with the requirements of the Jencks Act, a conviction should be reversed unless it is perfectly clear that the defense was not prejudiced by the omission."

Rankin told of several conversations he had with a defendant or an intermediary. In one, Rankin said, "Well, the previous day when the two men [apparently the defendants] came in, they didn't ask for my side of the story. They told me what they had been told by her [apparently Mrs. Richards] or whoever they had talked to. And I felt that our side of the

story should be told. Maybe they weren't aware of it." Later, the man to whom he was speaking replied, "That is completely different than what we had heard."

We do not find it "perfectly clear" that defense counsel would not have been helped in framing cross-examination. The government needed to persuade the jury that there had been an agreement between Rankin and Mrs. Richards to defer payment, and these assertions showed at least that Rankin knew he and Mrs. Richards differed about some part of their relationship.

We are at a loss to understand why government counsel failed to make full disclosure. We do not find, however, either the irreparable injury to defendants or the gross misconduct which might call for dismissal rather than retrial.

Defendants urge us to hold as a matter of law that the business relationship between Rankin and Mrs. Richards did not involve an extension of credit. We are not prepared, on the present record, to so hold. The issue is narrow, however, and in view of the further illumination which may come on retrial we do not consider it appropriate to attempt detailed discussion of the meaning of extension of credit.

The Clerk of this court is directed to enter judgment reversing the judgment appealed from and remanding the cause for a new trial.

DIRECTOR, FBI (183-121)

5/14/75

SAC, CHICAGO (179-501)

[REDACTED]

ET AL;

[REDACTED] - VICTIM
RICO; ECT; JDA; AR-HOBBS ACT
OO: CHICAGO

b6
b7C

Re Chicago report of SA RICHARD P. CAVANAGH
dated 1/23/75.

As Bureau is aware, subjects [REDACTED]
and SAM ANNERINO were found guilty of ECT violation
on November 11, 1974, in United States District Court
(USDC), Northern District of Illinois (NDI), Chicago.
On November 20, 1974, ANNERINO was sentenced to
5 years custody of Attorney General, same running
consecutive with present sentence, and [REDACTED] was
sentenced to three years custody of Attorney General
and three years probation. [REDACTED] was denied bond
pending appeal.

b6
b7C

On February 25, 1975, above ECT portion of
this case was orally argued before the Seventh
Circuit Court of Appeals, Chicago.

On March 19, 1975, the Seventh Circuit Court
reversed the above ECT convictions and remanded the
case for a new trial. The sole issue reached on appeal

2- Bureau
①- Chicago
RPC/sjp
(3)

RPC

179-501-90

SEARCHED _____
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FILED _____

CG 179-501

was that the Chicago Strike Force Attorney's [redacted] failed to make full disclosure of witness [redacted] prior statements (Federal Grand Jury testimony of [redacted] was arbitrarily excised by the Strike Force Attorneys rather than being turned over in toto) and this withholding required reversal.

b6
b7C

As of May 1, 1975, this case had not been assigned back to the USDC, NDI. On May 1, 1975, Chicago Strike Force Attorney [redacted] advised that as soon as this case is assigned to a District Court Judge, an early retrial date will be sought by the Government.

Subject [redacted] has been released from custody while ANNERINO remains in prison serving a prior sentence.

b6
b7C

Chicago will advise the Bureau when a new trial date is fixed and will forward amended disposition sheets for ANNERINO and [redacted]

DIRECTOR, FBI (183-121)

9/29/75
(ATTN: IDENTIFICATION
DIVISION)

SAC, CHICAGO (179-501) (P)

[REDACTED]
ET AL
RICO; ECT; JDA;
AR - HOBBS ACT

b6
b7C

Re Chicago letter to the Bureau dated 5/14/75.

Enclosed for the Identification Division of the
Bureau are the following:

1. One (1) amended Disposition Sheet on SAM
ANNERINO, FBI number 899 736 D.

2. One (1) amended Disposition Sheet on [REDACTED]
[REDACTED] FBI number [REDACTED]

b6
b7C

As Bureau aware the ECT convictions of ANNERINO
and [REDACTED] were reversed on March 19, 1975 by the Seventh
Circuit Court of Appeals and the case was remanded for trial
in USDC, Northern District of Illinois (NDI), Chicago,
Illinois.

On September 24, 1975, Chicago Strike Force Attorney
[REDACTED] advised that the ECT retrial of ANNERINO and
[REDACTED] has been assigned to Judge HUBERT L. WILL, USDC, NDI,
Chicago. The court date to set a trial date herein is
November 3, 1975.

b6
b7C

The Bureau will be advised when instant trial date
is fixed.

3 - Bureau (Enc. 2)
2 - Chicago
(1 - 92-1839)

RPC/cjb
(5)

0-1 med etc 1/13/76
Rec'd 1/16/76
Ans 1/16/76
RPE
17-501-94
SEARCHED _____
SERIALIZED _____
INDEXED _____
FILED _____

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE CHICAGO	OFFICE OF ORIGIN CHICAGO	DATE 1/23/76	INVESTIGATIVE PERIOD 1/6/76 - 1/3/76
TITLE OF CASE ET AL		REPORT MADE BY SA RICHARD P. CAVANAGH	TYPED BY jak
		CHARACTER OF CASE RICO; ECT; JDA; AR - HOBBS ACT	

REFERENCE: Chicago letter to the Bureau dated 9/29/75.

ENCLOSURESTO THE BUREAU (2)

1) One (1) Disposition Sheet on SAM ANNERINO, FBI Number 899736D.

2) One (1) Disposition Sheet on FBI Number

b6
b7C

ACCOMPLISHMENTS CLAIMED					<input checked="" type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CON VIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES		
						2	PENDING OVER ONE YEAR <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED

SPECIAL AGENT
IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:

- 3 - Bureau (183-121) (Encl. 2)
 1 - USA, Chicago
 1 - AIC, Chicago Strike Force
 (ATTN:)
 ① - Chicago (179-501)
jak

179-501-95

SEARCHED *RPM*
 INDEXED *RPM*
 SERIALIZED *RPM*
 FILED *RPM*

b6
b7C

Dissemination Record of Attached Report

Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

COVER PAGE

CG 170-501

ADMINISTRATIVE

Immediately subsequent to the not guilty jury verdict in this case on 1/3/76, the instant jury commented openly to the presiding judge in the public hallway of the Federal Building, that they did not understand the definition of an "Extension of Credit" and that the Strike Force attorneys did not satisfactorily explain how the instant case fit under that definition.

- B* -
COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATIONCopy to: 1 - USA, Chicago
1 - AIC, Chicago (ATTN: [REDACTED])b6
b7CReport of: SA RICHARD P. CAVANAGH
Date: 1/23/76

Office: CHICAGO

Field Office File #: 179-501

Bureau File #: 183-121

Title: [REDACTED]
ET ALCharacter: RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS;
EXTORTIONATE CREDIT TRANSACTIONS
JUVENILE DELINQUENCY ACT
~~Synopsis:~~ ARMED ROBBERY - HOBBS ACT

SYNOPSIS: After three day trial in USDC, NDI, Chicago, Illinois, the jury found subjects SAM ANNERINO and [REDACTED] not guilty of violating Title 18, Section 394, USC.

b6
b7C

- C -

DETAILS:

On January 6, 1976, the jury trial in this case commenced before Judge HUBERT L. WILL, United States District Court, Northern District of Illinois, Chicago.

On January 3, 1976, the jury found subjects SAM ANNERINO and [REDACTED] not guilty of violating Title 18, Section 394, of the United States Code (Use of Extortionate Means to Collect an Extension of Credit.)

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b7C

- 1* -

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D. C.

11-29-76 14 ZH

IDENTIFICATION DIVISION

The following FBI record, NUMBER 899 736 D, is furnished FOR OFFICIAL USE ONLY.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
PD Chicago I11	Sam Annerino Jr #PF 10-6-60	10-5-60	burg inv appl for prob 12-20-60	
PD Chicago I11	Samuel Annerino #PF 10-6-60	8-8-61	inv	
Army	Sam Annerino Jr. #RA 16 713 410	10-23-61 Chgo I11 Chgo I11		
Cook Co Jail Chgo I11	Samuel Annerino #401524	2-9-67	debtor	
PD Chgo I114	Sam Annerino #194332	2-13-68	inv armed rob	
USM Chgo I11	Samuel Annerino #73153	7-21-71	extortion	ISS 3 yrs prof see supplement
Countryside PD LaGrange I11	Sam Annerino Jr.	1-26-72	deviate sexual aslt armed rob	Nolle Prose o chg of Deviate sexual aslt
USM Chgo I11	Sam Annerino 78758	3-18-74	racketteering	see supplement
US Pen Terre Haute Ind	Samuel J. Annerino 30859-138	5-13-74	consp to extortion	2 yrs

179-501-96

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Information shown on this Identification Record represents data furnished FBI by fingerprint contributors. Where final disposition is not shown or further explanation of charge is desired, communicate with agency contributing those fingerprints.
Notations indicated by * are NOT based on fingerprints in FBI files but are listed only as investigative leads as being possibly identical with subject of this record.

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

IDENTIFICATION DIVISION

WASHINGTON, D.C. 20537

11-29-76 14 ZH

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899 736 D

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
	<p>Federal probation extends to 12-13-75 inf rec Chgo Ill EXPIRED</p> <p>73153 7-21-71 5 yrs susp to 3 yrs prob contingent upon voluntary submission to psychiatric care on chg of 18 USC 894 (extortion)</p> <p>78758 2-0-0 yrs subject to surrender to USM Indianapolis, IN on 5-9-74 F/F/D USP Terre Haute on chg of extortion 74M223 Balog; 11-11-71 guilty verdict USDC NDI Chicago for ECT violation-Collection (18 USC 894). Sent 11-20-74 five yrs custody of AG of US consec with 2-yr sentence now being served.</p>			
		SUPPLEMENT		

INSTRUCTIONS

1. This form may be submitted in legible hand printing.
2. Use separate form for each individual on whom record is requested.
3. Make effort to furnish FBI identification number, law enforcement identification number, or military service number.
4. Furnish descriptive data and fingerprint classification only when FBI number not available.
5. Indicate office for reply in lower right corner only. Also list in lower right corner all offices which should receive copies of available records. Include carbon of FD-9 for each office receiving copies and forward with original to Bureau.
6. Do not fill in block in lower left corner.

Re **DIRECTOR, FBI** Attention: Identification Division Date **11/16/76**
SAMUEL ANNERINO JR. Field File No. **179-501**

Furnish The Known Identification Record of the Following:

Name **SAMUEL ANNERINO JR.** FBI No. **899 736 D**
Other No.

Aliases

Sex M	Race W	Birth Date	Birthplace	Residence
Height	Weight	Build	Hair	Eyes
			Complexion	Age

Fingerprint Classification

Scars, marks and tattoos

Also Furnish:

☐ Photo

☐ Fingerprints

☐ Handwriting Specimens

Identification Division's Reply **179-501-99**

☐ On basis of information furnished, unable to identify:

☐ Criminal Files ☐ Civil Files ☐ All Files

☒ Record Attached

☐ Photo Attached

☐ Photo Not Available

☐ Fingerprints Attached

☐ Handwriting Specimen Attached

Return Reply to: **SAC, CHICAGO**

ATTN: SA

Send Copies To: **CHICAGO HTS R.A.**

179-501-99

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Mobster Annerino survives attempted hit

Sam Annerino, the crime syndicate muscle man-terrorist, has gone into seclusion—and with good reason. Annerino was on the receiving end of an assassination attempt that narrowly failed.

OutFront has learned that the previously undisclosed try on Annerino's life occurred the night of Oct. 27. A motorist found a

dazed and bleeding Annerino walking along Vollmer Rd., near Kedzie, at the southern limits of suburban Flossmoor. The motorist drove Annerino to a hospital in Chicago Heights for treatment.

Annerino had been shot in the right hand by a bullet that coursed upward and broke a bone in his arm. A second shot, a

near-fatal one, left a crease on the back of the hoodlum's head. But Annerino, while upset about his wounds, displayed almost as much concern about an attache case he'd left in the trunk of his borrowed auto. That auto was found parked along Flossmoor Rd., near Berry Ln., in Flossmoor.

In the auto, investigators found Annerino's attache case, or "hit kit," as they termed it. It yielded these items: a .22-caliber Derringer magnum, an icepick, a blackjack, \$700 in currency and several strips of adhesive tape cut in 10-foot lengths.

Annerino told a story of being shot by two hitchhikers, a male and female, he had picked up. But investigators believe he was the victim of an attempted mob hit. They note that Annerino recently has been busy trying to organize south suburban bookies and there is speculation that he failed to raise his now-injured right hand for mob permission before undertaking this mission.

In a ditch near Annerino's auto, investigators found a discarded .38-caliber snub-nose revolver. In the auto, they found evidence of a terrific struggle. Fragments of three bullets were discovered, the rear-view mirror had been ripped from its socket and the gear shift and turn indicator were bent.

FOOTNOTE: There is a touch of irony in the near-miss effort to kill Annerino. He faces a charge of unlawful use of a firearm because of the Derringer found in his hit kit.

(Indicate page, name of newspaper, city and state.)

4 SUNDAY SUN TIMES
CHICAGO, ILLINOIS

Date: 11/14/76
Edition: 4* FINAL

Author: PETACQUE & HOUGH b6
Editor: JAMES HOGE b7C

AKA;
ETAL; TFIS;
TAS-POSSESS; ITSP; AIDIN
Character: ABLETTING, BF&E
or 15-63644

Classification:

Submitting Office: CHICAGO

COPY SENT TO BUREAU

179-501-98

Mc K

MRT

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, CHICAGO (179-501) ✓

DATE: 11/15/76

FROM : SA [REDACTED]

b6
b7C

SUBJECT: SAMUEL ANNERINO
ECT

On 11/4/76, [REDACTED] Investigator, Flossmoor, Illinois Police Department, furnished reports relating to the attempted murder of captioned subject in the Flossmoor, Illinois area. These reports are attached to this memo.

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It is noted that the subject has been the subject of several cases and would appear deeply involved in organized criminal activities. The circumstances of his attempted murder indicated that his account of the incident might well have been fabricated.

For information purposes.

1 - 179-331
1 - 15-33541
1 - 9-6421

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(4)

*178 PD reports
in 179-331
KAO*

179-501-99

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5010-110

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<input type="checkbox"/> Tokyo

RE:
Et AL

Date 6/14/78 b6
b7C

☐ For information ☐ Retention optional ☐ For appropriate action ☐ Surep, by _____
☐ The enclosed is for your information. If used in a future report, ☐ conceal all sources, ☐ paraphrase contents.
☐ Enclosed are corrected pages from report of SA _____ dated _____

Remarks: By return routing slip please send 1 copy of a report from Chicago to FBIHQ by SA Richard P. Cavanagh dated 1/23/76.

Return to Bureau Attention:
Records Management Division
Filing Unit,

Room 5657^{b6}

Enc.

Bufile 183-121
Urfile 179-501

179-501-163^{b7C}

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